

INCOME TAX ACT OF 1967 Act 281 of 1967

AN ACT to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts.

History: 1967, Act 281, Eff. Oct. 1, 1967.

The People of the State of Michigan enact:

CHAPTER 1

206.1 Income tax act of 1967; short title.

Sec. 1. This act is for the purpose of meeting deficiencies in state funds and shall be known and may be cited as the “income tax act of 1967”.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.2 Income tax act; rules of construction; internal revenue code, applicability.

Sec. 2. (1) For the purposes of this act, the words, terms and phrases set forth in this chapter and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. “Shall” is always mandatory and “may” is always discretionary.

(2) Any term used in this act shall have the same meaning as when used in comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this act to the internal revenue code shall include other provisions of the laws of the United States relating to federal income taxes.

(3) It is the intention of this act that the income subject to tax be the same as taxable income as defined and applicable to the subject taxpayer in the internal revenue code, except as otherwise provided in this act.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.4 “Board” and “business income” defined.

Sec. 4. (1) “Board” means the state board of tax appeals.

(2) “Business income” means all income arising from transactions, activities, and sources in the regular course of the taxpayer's trade or business and includes the following:

(a) All income from tangible and intangible property if the acquisition, rental, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.

(b) Gains or losses from stock and securities of any foreign or domestic corporation and dividend and interest income.

(c) Income derived from isolated sales, leases, assignment, licenses, divisions, or other infrequently occurring dispositions, transfers, or transactions involving property if the property is or was used in the taxpayer's trade or business operation.

(d) Income derived from the sale of a business.

(3) Not later than 2 years after the effective date of the amendatory act that added subsection (2)(b), the department shall report the impact of the amendatory act that added subsection (2)(b) on the tax liability under this act of resident and nonresident taxpayers to the house tax policy committee and the senate finance committee.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2003, Act 52, Imd. Eff. July 14, 2003.

206.6 “Commercial domicile,” “commissioner,” “compensation,” and “corporation” defined.

Sec. 6. (1) “Commercial domicile” means the principal place from which the trade or business of the taxpayer is directed or managed.

(2) “Commissioner” means the commissioner of the department.

(3) “Compensation” means wages as defined in section 3401 and other payments as provided in section 3402 of the internal revenue code.

(4) “Corporation” means, in addition to an incorporated entity, an association, trust or any unincorporated organization which is defined as a corporation in the internal revenue code.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1971, Act 16, Imd. Eff. Apr. 28, 1971

206.8 “Department,” “employee,” and “employer” defined.

Sec. 8. (1) “Department” means the revenue division of the department of treasury.

(2) “Employee” means an employee as defined in section 3401(c) of the internal revenue code. Any person from whom an employer is required to withhold for federal income tax purposes shall prima facie be deemed an employee.

(3) “Employer” means an employer as defined in section 3401(d) of the internal revenue code. Any person required to withhold for federal income tax purposes shall prima facie be deemed an employer.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.10 “Fiduciary” defined.

Sec. 10. “Fiduciary” means a guardian, trustee, executor, administrator, executrix, administratrix, receiver, conservator, or any person acting in any fiduciary capacity, whether or not a resident of this state.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1971, Act 76, Imd. Eff. July 30, 1971;—Am. 1972, Act 181, Imd. Eff. Aug. 1, 1972;—Am. 1974, Act 33, Imd. Eff. Mar. 8, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: Section 4 of Act 76 of 1971 provides:

“Expiration of act; conditions.

“Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a special election to be held on November 2, 1971 or at the general election to be held November 1972.”

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

206.12 Definitions.

Sec. 12. (1) “Flow-through entity” means an S corporation, partnership, limited partnership, limited liability partnership, or limited liability company. Flow-through entity does not include a publicly traded partnership as that term is defined in section 7704 of the internal revenue code that has equity securities registered with the securities and exchange commission under section 12 of title I of the securities exchange act of 1934, chapter 404, 48 Stat. 881, 15 U.S.C. 78l.

(2) “Gross income” means gross income as defined in the internal revenue code.

(3) “Internal revenue code” means the United States internal revenue code of 1986 in effect on January 1, 1996 or at the option of the taxpayer, in effect for the tax year.

(4) “Member of a flow-through entity” means a shareholder of an S corporation; a partner in a partnership or limited partnership; or a member of a limited liability company.

(5) “Nonresident member” means any of the following that is a member of a flow-through entity:

(a) An individual who is not domiciled in this state.

(b) A nonresident estate or trust.

(c) A flow-through entity with a nonresident member.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1971, Act 16, Imd. Eff. Apr. 28, 1971;—Am. 1976, Act 434, Imd. Eff. Jan. 11, 1977;—Am. 1980, Act 250, Imd. Eff. July 28, 1980;—Am. 1982, Act 387, Imd. Eff. Dec. 28, 1982;—Am. 1984, Act 283, Imd. Eff. Dec. 20, 1984;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2003, Act 45, Eff. Oct. 1, 2003.

206.14 Nonbusiness income, nonresident and nonresident estate or trust; definitions.

Sec. 14. (1) “Nonbusiness income” means all income other than business income.

(2) “Nonresident” means any individual who is not a resident.

(3) “Nonresident estate or trust” means any estate or trust not included in the definition of a resident estate or trust.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.16 Person; definition.

Sec. 16. “Person” includes any individual, firm, association, corporation, receiver, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular number.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.18 Resident and domicile; definitions.

Sec. 18. (1) "Resident" means:

(a) An individual domiciled in the state. "Domicile" means a place where a person has his true, fixed and permanent home and principal establishment to which, whenever absent therefrom he intends to return, and domicile continues until another permanent establishment is established. If an individual during the taxable year being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status. If an individual lives in this state at least 183 days during the tax year or more than 1/2 the days during a taxable year of less than 12 months he shall be deemed a resident individual domiciled in this state.

(b) The estate of a decedent who at his death was domiciled in this state.

(c) Any trust created by will of a decedent who at his death was domiciled in this state and any trust created by, or consisting of property of, a person domiciled in this state, at the time the trust becomes irrevocable.

(2) For the purpose of the definition of "resident", a taxable year shall be deemed to be terminated at the date of death.

(3) The term "resident" when referring to a corporation means a corporation organized under the laws of this state.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.20 Sales and state; definitions.

Sec. 20. (1) "Sales" means all gross receipts of the taxpayer not allocated under sections 110 to 114.

(2) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or political subdivision, thereof.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.22 "Tax" and "taxable value" defined.

Sec. 22. (1) "Tax" includes interest and penalties and further includes the tax required to be withheld by an employer on salaries and wages and the tax required to be withheld by a flow-through entity on nonresident members' share of income available for distribution, unless the intention to give it a more limited meaning is disclosed by the context.

(2) "Taxable value" means taxable value as calculated under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1996, Act 484, Imd. Eff. Dec. 27, 1996;—Am. 2003, Act 51, Eff. Oct. 1, 2003.

206.24 Tax year or taxable year; definition.

Sec. 24. "Tax year" or "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which taxable income is computed under this act. In the case of a return made for a fractional part of a year, the term shall mean the period for which such return is made. Except for the first return required by this act, any taxpayer's tax year shall be for the same period as is covered by his federal income tax return.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.26 "Taxpayer" defined.

Sec. 26. "Taxpayer" means any person subject to the taxes imposed by this act, any employer required to withhold taxes on salaries and wages, or any flow-through entity required to withhold taxes on a nonresident member's share of income available for distribution.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 2003, Act 50, Eff. Oct. 1, 2003.

206.28 Taxable income or net income; definition.

Sec. 28. "Taxable income" or "net income" means, unless specifically defined otherwise in this act, taxable income as defined in the internal revenue code for the subject taxpayer for federal income tax purposes, subject to any adjustment resulting from the election in section 271 but without deduction or credit for any tax on or measured by net income.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.30 "Taxable income" defined; personal exemption; single additional exemption; certain deduction not considered allowable federal exemption for purposes of subsection (2); allowable exemption or deduction for nonresident or part-year resident; subtraction of

prizes under MCL 432.1 to 432.47 from adjusted gross income prohibited; adjusted personal exemption; "retirement or pension benefits" defined.

Sec. 30. (1) "Taxable income" means, for a person other than a corporation, estate, or trust, adjusted gross income as defined in the internal revenue code subject to the following adjustments under this section:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount that has been excluded from adjusted gross income less related expenses not deducted in computing adjusted gross income because of section 265(a)(1) of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at adjusted gross income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at adjusted gross income.

(d) Deduct, to the extent included in adjusted gross income, income derived from obligations, or the sale or exchange of obligations, of the United States government that this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations and by any expenses incurred in the production of that income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at adjusted gross income.

(e) Deduct, to the extent included in adjusted gross income, compensation, including retirement benefits, received for services in the armed forces of the United States.

(f) Deduct the following to the extent included in adjusted gross income:

(i) Retirement or pension benefits received from a federal public retirement system or from a public retirement system of or created by this state or a political subdivision of this state.

(ii) Retirement or pension benefits received from a public retirement system of or created by another state or any of its political subdivisions if the income tax laws of the other state permit a similar deduction or exemption or a reciprocal deduction or exemption of a retirement or pension benefit received from a public retirement system of or created by this state or any of the political subdivisions of this state.

(iii) Social security benefits as defined in section 86 of the internal revenue code.

(iv) Beginning on and after January 1, 2007, retirement or pension benefits not deductible under subparagraph (i) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, to a maximum of \$42,240.00 for a single return and \$84,480.00 for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (i) or subdivision (e) and by the amount of a deduction claimed under subdivision (r). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph as necessary. As used in this subparagraph, "senior citizen" means that term as defined in section 514.

(v) The amount determined to be the section 22 amount eligible for the elderly and the permanently and totally disabled credit provided in section 22 of the internal revenue code.

(g) Adjustments resulting from the application of section 271.

(h) Adjustments with respect to estate and trust income as provided in section 36.

(i) Adjustments resulting from the allocation and apportionment provisions of chapter 3.

(j) Deduct political contributions as described in section 4 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204, or 2 USC 431, not in excess of \$50.00 per annum, or \$100.00 per annum for a joint return.

(k) Deduct, to the extent included in adjusted gross income, wages not deductible under section 280C of the internal revenue code.

(l) Deduct the following payments made by the taxpayer in the tax year:

(i) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442.

(ii) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:

(A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract as described in subparagraph (i).

(B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or a community or junior college in Michigan.

(C) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.

(D) The contract is entered into after either of the following:

(I) The purchaser has had his or her offer to enter into an advance tuition payment contract rejected by the board of directors of the Michigan education trust, if the board determines that the trust cannot accept an unlimited number of enrollees upon an actuarially sound basis.

(II) The board of directors of the Michigan education trust determines that the trust can accept an unlimited number of enrollees upon an actuarially sound basis.

(m) If an advance tuition payment contract under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, or another contract for which the payment was deductible under subdivision (I) is terminated and the qualified beneficiary under that contract does not attend a university, college, junior or community college, or other institution of higher education, add the amount of a refund received by the taxpayer as a result of that termination or the amount of the deduction taken under subdivision (I) for payment made under that contract, whichever is less.

(n) Deduct from the taxable income of a purchaser the amount included as income to the purchaser under the internal revenue code after the advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, is terminated because the qualified beneficiary attends an institution of postsecondary education other than either a state institution of higher education or an institution of postsecondary education located outside this state with which a state institution of higher education has reciprocity.

(o) Add, to the extent deducted in determining adjusted gross income, the net operating loss deduction under section 172 of the internal revenue code.

(p) Deduct a net operating loss deduction for the taxable year as determined under section 172 of the internal revenue code subject to the modifications under section 172(b)(2) of the internal revenue code and subject to the allocation and apportionment provisions of chapter 3 of this act for the taxable year in which the loss was incurred.

(q) Deduct, to the extent included in adjusted gross income, benefits from a discriminatory self-insurance medical expense reimbursement plan.

(r) Beginning on and after January 1, 2007, a taxpayer who is a senior citizen may deduct to the extent included in adjusted gross income, interest, dividends, and capital gains received in the tax year not to exceed \$9,420.00 for a single return and \$18,840.00 for a joint return. The maximum amounts allowed under this subdivision shall be reduced by the amount of a deduction claimed for retirement benefits under subdivision (e) or a deduction claimed under subdivision (f)(i), (ii), (iv), or (v). For the 2008 tax year and each tax year after 2008, the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary. As used in this subdivision, "senior citizen" means that term as defined in section 514.

(s) Deduct, to the extent included in adjusted gross income, all of the following:

(i) The amount of a refund received in the tax year based on taxes paid under this act.

(ii) The amount of a refund received in the tax year based on taxes paid under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(iii) The amount of a credit received in the tax year based on a claim filed under sections 520 and 522 to the extent that the taxes used to calculate the credit were not used to reduce adjusted gross income for a prior year.

(t) Add the amount paid by the state on behalf of the taxpayer in the tax year to repay the outstanding principal on a loan taken on which the taxpayer defaulted that was to fund an advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1442, if the cost of the advance tuition payment contract was deducted under subdivision (I) and was financed with a Michigan education trust secured loan.

(u) Deduct the amount calculated under section 30d.

(v) Deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermögensfragen, as a result of the settlement of the action entitled In re: Holocaust victim assets litigation, CV-96-4849, CV-96-5161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

(i) "Holocaust victim" means a person, or the heir or beneficiary of that person, who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945.

(ii) "Recovered asset" means any asset of any type and any interest earned on that asset including, but not limited to, bank deposits, insurance proceeds, or artwork owned by a Holocaust victim during the period from 1920 to 1945, withheld from that Holocaust victim from and after 1945, and not recovered, returned, or otherwise compensated to the Holocaust victim until after 1993.

(w) Deduct, to the extent not deducted in determining adjusted gross income, both of the following:

(i) Contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from education savings accounts, calculated on a per education savings account basis, pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for each education savings account shall not be less than zero.

(ii) The amount under section 30f.

(x) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from education savings accounts, not to exceed the total amount deducted under subdivision (w) in the tax year and all previous tax years, if the withdrawal was not a qualified withdrawal as provided in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486. This subdivision does not apply to withdrawals that are less than the sum of all contributions made to an education savings account in all previous tax years for which no deduction was claimed under subdivision (w), less any contributions for which no deduction was claimed under subdivision (w) that were withdrawn in all previous tax years.

(y) Deduct, to the extent included in adjusted gross income, the amount of a distribution from individual retirement accounts that qualify under section 408 of the internal revenue code if the distribution is used to pay qualified higher education expenses as that term is defined in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(z) Deduct, to the extent included in adjusted gross income, an amount equal to the qualified charitable distribution made in the tax year by a taxpayer to a charitable organization. The amount allowed under this subdivision shall be equal to the amount deductible by the taxpayer under section 170(c) of the internal revenue code with respect to the qualified charitable distribution in the tax year in which the taxpayer makes the distribution to the qualified charitable organization, reduced by both the amount of the deduction for retirement or pension benefits claimed by the taxpayer under subdivision (f)(i), (ii), (iv), or (v) and by 2 times the total amount of credits claimed under sections 260 and 261 for the tax year. As used in this subdivision, "qualified charitable distribution" means a distribution of assets to a qualified charitable organization by a taxpayer not more than 60 days after the date on which the taxpayer received the assets as a distribution from a retirement or pension plan described in subsection (8)(a). A distribution is to a qualified charitable organization if the distribution is made in any of the following circumstances:

(i) To an organization described in section 501(c)(3) of the internal revenue code except an organization that is controlled by a political party, an elected official or a candidate for an elective office.

(ii) To a charitable remainder annuity trust or a charitable remainder unitrust as defined in section 664(d) of the internal revenue code; to a pooled income fund as defined in section 642(c)(5) of the internal revenue code; or for the issuance of a charitable gift annuity as defined in section 501(m)(5) of the internal revenue code. A trust, fund, or annuity described in this subparagraph is a qualified charitable organization only if no person holds any interest in the trust, fund, or annuity other than 1 or more of the following:

(A) The taxpayer who received the distribution from the retirement or pension plan.

(B) The spouse of an individual described in sub-subparagraph (A).

(C) An organization described in section 501(c)(3) of the internal revenue code.

(aa) A taxpayer who is a resident tribal member may deduct, to the extent included in adjusted gross income, all nonbusiness income earned or received in the tax year and during the period in which an agreement entered into between the taxpayer's tribe and this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is in full force and effect. As used in this subdivision:

(i) "Business income" means business income as defined in section 4 and apportioned under chapter 3.

(ii) "Nonbusiness income" means nonbusiness income as defined in section 14 and, to the extent not included in business income, all of the following:

(A) All income derived from wages whether the wages are earned within the agreement area or outside of the agreement area.

(B) All interest and passive dividends.

(C) All rents and royalties derived from real property located within the agreement area.

(D) All rents and royalties derived from tangible personal property, to the extent the personal property is

utilized within the agreement area.

(E) Capital gains from the sale or exchange of real property located within the agreement area.

(F) Capital gains from the sale or exchange of tangible personal property located within the agreement area at the time of sale.

(G) Capital gains from the sale or exchange of intangible personal property.

(H) All pension income and benefits including, but not limited to, distributions from a 401(k) plan, individual retirement accounts under section 408 of the internal revenue code, or a defined contribution plan, or payments from a defined benefit plan.

(I) All per capita payments by the tribe to resident tribal members, without regard to the source of payment.

(J) All gaming winnings.

(iii) "Resident tribal member" means an individual who meets all of the following criteria:

(A) Is an enrolled member of a federally recognized tribe.

(B) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(C) The individual's principal place of residence is located within the agreement area as designated in the agreement under sub-subparagraph (B).

(bb) For tax years that begin after December 31, 2006, deduct, to the extent included in adjusted gross income, all or a portion of the gain, as determined under this section, realized from an initial equity investment of not less than \$100,000.00 made by the taxpayer before December 31, 2009, in a qualified business, if an amount equal to the sum of the taxpayer's basis in the investment as determined under the internal revenue code plus the gain, or a portion of that amount, is reinvested in an equity investment in a qualified business within 1 year after the sale or disposition of the investment in the qualified business. If the amount of the subsequent investment is less than the sum of the taxpayer's basis from the prior equity investment plus the gain from the prior equity investment, the amount of a deduction under this section shall be reduced by the difference between the sum of the taxpayer's basis from the prior equity investment plus the gain from the prior equity investment and the subsequent investment. As used in this subdivision:

(i) "Advanced automotive, manufacturing, and materials technology" means any technology that involves 1 or more of the following:

(A) Materials with engineered properties created through the development of specialized process and synthesis technology.

(B) Nanotechnology, including materials, devices, or systems at the atomic, molecular, or macromolecular level, with a scale measured in nanometers.

(C) Microelectromechanical systems, including devices or systems integrating microelectronics with mechanical parts and a scale measured in micrometers.

(D) Improvements to vehicle safety, vehicle performance, vehicle production, or environmental impact, including, but not limited to, vehicle equipment and component parts.

(E) Any technology that involves an alternative energy vehicle or its components. "Alternative energy vehicle" means that term as defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(F) A new technology, device, or system that enhances or improves the manufacturing process of wood, timber, or agricultural-based products.

(G) Advanced computing or electronic device technology related to technology described under this subparagraph.

(H) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(I) Product research and development related to technology described under this subparagraph.

(ii) "Advanced computing" means any technology used in the design and development of 1 or more of the following:

(A) Computer hardware and software.

(B) Data communications.

(C) Information technologies.

(iii) "Alternative energy technology" means applied research or commercialization of new or next generation technology in 1 or more of the following:

(A) Alternative energy technology as that term is defined in section 2 of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(B) Devices or systems designed and used solely for the purpose of generating energy from agricultural crops, residue and waste generated from the production and processing of agricultural products, animal wastes, or food processing wastes, not including a conventional gasoline or diesel fuel engine or a retrofitted

conventional gasoline or diesel fuel engine.

(C) A new technology, product, or system that permits the utilization of biomass for the production of specialty, commodity, or foundational chemicals or of novel or economical commodity materials through the application of biotechnology that minimizes, complements, or replaces reliance on petroleum for the production.

(D) Advanced computing or electronic device technology related to technology described under this subparagraph.

(E) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(F) Product research and development related to a technology described under this subparagraph.

(iv) "Competitive edge technology" means 1 or more of the following:

(A) Advanced automotive, manufacturing, and materials technology.

(B) Alternative energy technology.

(C) Homeland security and defense technology.

(D) Life sciences technology.

(v) "Electronic device technology" means any technology that involves microelectronics, semiconductors, electronic equipment, and instrumentation, radio frequency, microwave, and millimeter electronics; optical and optic-electrical devices; or data and digital communications and imaging devices.

(vi) "Homeland security and defense technology" means technology that assists in the assessment of threats or damage to the general population and critical infrastructure, protection of, defense against, or mitigation of the effects of foreign or domestic threats, disasters, or attacks, or support for crisis or response management, including, but not limited to, 1 or more of the following:

(A) Sensors, systems, processes, or equipment for communications, identification and authentication, screening, surveillance, tracking, and data analysis.

(B) Advanced computing or electronic device technology related to technology described under this subparagraph.

(C) Aviation technology including, but not limited to, avionics, airframe design, sensors, early warning systems, and services related to the technology described in this subparagraph.

(D) Design, engineering, testing, or diagnostics related to technology described under this subparagraph.

(E) Product research and development related to technology described under this subparagraph.

(vii) "Life sciences technology" means any technology derived from life sciences intended to improve human health or the overall quality of human life, including, but not limited to, systems, processes, or equipment for drug or gene therapies, biosensors, testing, medical devices or instrumentation with a therapeutic or diagnostic value, a pharmaceutical or other product that requires United States food and drug administration approval or registration prior to its introduction in the marketplace and is a drug or medical device as defined by the federal food, drug, and cosmetic act, 21 USC 301 to 399, or 1 or more of the following:

(A) Advanced computing or electronic device technology related to technology described under this subparagraph.

(B) Design, engineering, testing, or diagnostics related to technology or the commercial manufacturing of technology described under this subparagraph.

(C) Product research and development related to technology described under this subparagraph.

(viii) "Life sciences" means science for the examination or understanding of life or life processes, including, but not limited to, all of the following:

(A) Bioengineering.

(B) Biomedical engineering.

(C) Genomics.

(D) Proteomics.

(E) Molecular and chemical ecology.

(F) Biotechnology, including any technology that uses living organisms, cells, macromolecules, microorganisms, or substances from living organisms to make or modify a product for useful purposes. Biotechnology or life sciences do not include any of the following:

(I) Activities prohibited under section 2685 of the public health code, 1978 PA 368, MCL 333.2685.

(II) Activities prohibited under section 2688 of the public health code, 1978 PA 368, MCL 333.2688.

(III) Activities prohibited under section 2690 of the public health code, 1978 PA 368, MCL 333.2690.

(IV) Activities prohibited under section 16274 of the public health code, 1978 PA 368, MCL 333.16274.

(V) Stem cell research with human embryonic tissue.

(ix) "Qualified business" means a business that complies with all of the following:

(A) The business is a seed or early stage business as defined in section 3 of the Michigan early stage

venture investment act of 2003, 2003 PA 296, MCL 125.2233.

(B) The business has its headquarters in this state, is domiciled in this state, or has a majority of its employees working a majority of their time in this state.

(C) The business has a preinvestment valuation of less than \$10,000,000.00.

(D) The business has been in existence less than 5 years. This sub-subparagraph does not apply to a business, the business activity of which is derived from research at an institution of higher education located within this state or an organization exempt from federal taxation under section 501c(3) of the internal revenue code and that is located within this state.

(E) The business is engaged only in competitive edge technology.

(F) The business is certified by the Michigan strategic fund as meeting the requirements of sub-subparagraphs (A) to (E) at the time of each proposed investment.

(2) Except as otherwise provided in subsection (7), a personal exemption of \$2,500.00 multiplied by the number of personal or dependency exemptions allowable on the taxpayer's federal income tax return pursuant to the internal revenue code shall be subtracted in the calculation that determines taxable income.

(3) Except as otherwise provided in subsection (7), a single additional exemption determined as follows shall be subtracted in the calculation that determines taxable income in each of the following circumstances:

(a) \$1,800.00 for each taxpayer and every dependent of the taxpayer who is 65 years of age or older. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision and subdivision (c), "dependent" means that term as defined in section 30e.

(b) \$1,800.00 for each taxpayer and every dependent of the taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a hemiplegic; a person who is blind as defined in section 504; or a person who is totally and permanently disabled as defined in section 522. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision.

(c) \$1,800.00 if the taxpayer's return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(d) For tax years beginning after 2007, \$250.00 for each taxpayer and every dependent of the taxpayer who is a qualified disabled veteran. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision:

(i) "Qualified disabled veteran" means a veteran with a service-connected disability.

(ii) "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service as described in 38 USC 101(16).

(iii) "Veteran" means a person who served in the active military, naval, marine, coast guard, or air service and who was discharged or released from his or her service with an honorable or general discharge.

(4) An individual with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year is not considered to have an allowable federal exemption for purposes of subsection (2), but may subtract \$1,500.00 in the calculation that determines taxable income for a tax year.

(5) A nonresident or a part-year resident is allowed that proportion of an exemption or deduction allowed under subsection (2), (3), or (4) that the taxpayer's portion of adjusted gross income from Michigan sources bears to the taxpayer's total adjusted gross income.

(6) In calculating taxable income, a taxpayer shall not subtract from adjusted gross income the amount of prizes won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(7) For each tax year, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 1997 by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States consumer price index for the 1995-96 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment. The personal exemption for the tax year shall be determined by adding \$200.00 to that rounded amount. As used in this section, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics. For each tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending the tax year prior to the tax year for which the

adjustment is being made and the denominator of which is the United States consumer price index for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest \$100.00 increment.

(8) As used in subsection (1)(f), "retirement or pension benefits" means distributions from all of the following:

(a) Except as provided in subdivision (d), qualified pension trusts and annuity plans that qualify under section 401(a) of the internal revenue code, including all of the following:

(i) Plans for self-employed persons, commonly known as Keogh or HR10 plans.

(ii) Individual retirement accounts that qualify under section 408 of the internal revenue code if the distributions are not made until the participant has reached 59-1/2 years of age, except in the case of death, disability, or distributions described by section 72(t)(2)(A)(iv) of the internal revenue code.

(iii) Employee annuities or tax-sheltered annuities purchased under section 403(b) of the internal revenue code by organizations exempt under section 501(c)(3) of the internal revenue code, or by public school systems.

(iv) Distributions from a 401(k) plan attributable to employee contributions mandated by the plan or attributable to employer contributions.

(b) The following retirement and pension plans not qualified under the internal revenue code:

(i) Plans of the United States, state governments other than this state, and political subdivisions, agencies, or instrumentalities of this state.

(ii) Plans maintained by a church or a convention or association of churches.

(iii) All other unqualified pension plans that prescribe eligibility for retirement and predetermine contributions and benefits if the distributions are made from a pension trust.

(c) Retirement or pension benefits received by a surviving spouse if those benefits qualified for a deduction prior to the decedent's death. Benefits received by a surviving child are not deductible.

(d) Retirement and pension benefits do not include:

(i) Amounts received from a plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service. These plans include, but are not limited to, all of the following:

(A) Deferred compensation plans under section 457 of the internal revenue code.

(B) Distributions from plans under section 401(k) of the internal revenue code other than plans described in subdivision (a)(iv).

(C) Distributions from plans under section 403(b) of the internal revenue code other than plans described in subdivision (a)(iii).

(ii) Premature distributions paid on separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan.

(iii) Payments received as an incentive to retire early unless the distributions are from a pension trust.

History: 1967, Act 281, Imd. Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1971, Act 150, Imd. Eff. Nov. 22, 1971;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 217, Imd. Eff. July 21, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1976, Act 435, Imd. Eff. Jan. 11, 1977;—Am. 1978, Act 554, Imd. Eff. Dec. 22, 1978;—Am. 1980, Act 250, Imd. Eff. July 28, 1980;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 135, Imd. Eff. Oct. 21, 1981;—Am. 1982, Act 240, Imd. Eff. Sept. 23, 1982;—Am. 1984, Act 284, Imd. Eff. Dec. 20, 1984;—Am. 1984, Act 415, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 315, Imd. Eff. Dec. 23, 1986;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1994, Act 268, Eff. July 7, 1994;—Am. 1995, Act 2, Imd. Eff. Mar. 8, 1995;—Am. 1995, Act 230, Eff. Jan. 9, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 1997, Act 86, Imd. Eff. July 28, 1997;—Am. 1999, Act 181, Imd. Eff. Nov. 16, 1999;—Am. 2000, Act 162, Imd. Eff. June 16, 2000;—Am. 2000, Act 301, Imd. Eff. Oct. 11, 2000;—Am. 2000, Act 400, Imd. Eff. Jan. 8, 2001;—Am. 2002, Act 615, Imd. Eff. Dec. 20, 2002;—Am. 2004, Act 394, Imd. Eff. Oct. 15, 2004;—Am. 2005, Act 214, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007;—Am. 2007, Act 154, Imd. Eff. Dec. 20, 2007.

Constitutionality: The Michigan Income Tax Act violates principles of intergovernmental immunity by favoring retired state and local government employees over retired federal employees. *Davis v. Michigan Dept. of Treasury*, 109 S.Ct. 1500 (1989).

Compiler's note: Act 253 of 1980, purporting to amend §§ 206.30, 206.512, 206.520, and 206.522 and to add a § 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to and disapproved by the people at the general election held on November 4, 1980.

Enacting section 1 of Act 181 of 1999 provides:

"Enacting section 1. Notwithstanding any other provision of law, this amendatory act is intended to be retroactive and effective for tax years that begin on and after January 1, 1994."

206.30a-206.30c Repealed. 1996, Act 484, Eff. Jan. 1, 1997.

Compiler's note: The repealed sections pertained to certain allowable deductions.

206.30d Short title; child care; taxable income; allowable deductions.

Sec. 30d. (1) The amendatory act that added this section shall be known as the “child care act of 1997”.

(2) For the 1998 tax year and for tax years that begin in 1999, taxable income for purposes of this act equals taxable income as determined under section 30 from which a taxpayer may deduct the following amounts:

(a) An amount equal to \$600.00 multiplied by the number of exemptions claimed by the taxpayer under section 30(2) in the tax year for dependents of the taxpayer who are children younger than 7 years of age on the last day of the tax year.

(b) An amount equal to \$300.00 multiplied by the number of exemptions claimed by the taxpayer under section 30(2) in the tax year for dependents of the taxpayer who are children and who are at least 7 years of age and younger than 13 years of age on the last day of the tax year.

(3) For tax years that begin after 1999, taxable income for purposes of this act equals taxable income as determined under section 30 from which a taxpayer may deduct an amount equal to \$600.00 multiplied by the number of exemptions claimed by the taxpayer under section 30(2) in the tax year for dependents of the taxpayer who are children younger than 19 years of age on the last day of the tax year.

History: Add. 1997, Act 81, Eff. July 28, 1997;—Am. 2000, Act 42, Imd. Eff. Mar. 27, 2000.

Compiler's note: Enacting section 1 of 2000 PA 42 provides:

“It is the intent of the legislature that the enactment of this amendatory act shall not reduce the amount that would have been available for deposit into the school aid fund under section 51 of the income tax act of 1967, 1967 PA 281, MCL 206.51, if this amendatory act had not been enacted.”

206.30e “Dependent” defined.

Sec. 30e. As used in section 30(3), “dependent” means an individual for whom the taxpayer may claim a dependency exemption on the taxpayer's federal income tax return pursuant to the internal revenue code.

History: Add. 2000, Act 43, Eff. Oct. 11, 2000.

206.30f Taxable income; educational savings accounts; adjustment.

Sec. 30f. For tax years that begin after December 31, 1999, taxable income for purposes of this act equals taxable income as determined under section 30 with the following adjustments:

(a) For tax years that begin after December 31, 1999, deduct, to the extent not deducted in determining adjusted gross income, interest earned in the tax year on the contributions to the taxpayer's education savings accounts if the contributions were deductible under section 30(1)(w)(i).

(b) For tax years that begin after December 31, 1999, deduct, to the extent included in adjusted gross income, distributions that are qualified withdrawals from an education savings account to the designated beneficiary of that education savings account. As used in this subdivision, “qualified withdrawal” means that term as defined in the Michigan education savings program act.

History: Add. 2000, Act 163, Imd. Eff. June 16, 2000.

206.31 Taxable income; deductions; other deductions not allowed; taxpayers residing in renaissance zone; applicable provisions; annual return; withholding form; interest and penalty; taxable income derived from illegal activity; calculation of net operating loss; change of taxpayer status; definitions.

Sec. 31. (1) Notwithstanding any other provision of this act and for the 1997 tax year and each tax year after 1997, “taxable income” means taxable income as determined under section 30 and, except as otherwise provided, subsequently adjusted under this section.

(2) For the 1997 tax year and each tax year after 1997 and to the extent and for the duration provided in the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, to determine taxable income, a qualified taxpayer may deduct, to the extent included in adjusted gross income, an amount equal to the sum of all of the following:

(a) Except as provided in subdivisions (b), (c), and (d), income earned or received during the period of time that the qualified taxpayer was a resident of a renaissance zone.

(b) Interest and dividends received in the tax year during the period that the qualified taxpayer was a resident of a renaissance zone.

(c) Capital gains received in the tax year prorated based on the percentage of time that the asset was held by the qualified taxpayer while the qualified taxpayer was a resident of the renaissance zone.

(d) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state only if the date on which the drawing for that game was held was after the taxpayer became a resident of a renaissance zone and income received by the qualified taxpayer from winning an instant lottery game

sponsored by this state only if the taxpayer was a resident of a renaissance zone on the validation date of the lottery ticket for that game.

(3) Income used to calculate a deduction under any other section of this act shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (11)(d) before the end of the tax year in which the qualified taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for that tax year. If the qualified taxpayer completes the residency requirements under subsection (11)(d) in a tax year subsequent to the tax year in which the qualified taxpayer first resided in the renaissance zone, the following apply:

(a) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and before the date for filing the annual return under this act for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the taxpayer first resided in the renaissance zone.

(b) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and after the date for filing the annual return under this act for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the residency requirement is completed on the annual return for the tax year in which the residency requirement is completed and may claim the deduction for the tax year in which the qualified taxpayer first resided in the renaissance zone by filing an amended return for the tax year in which the qualified taxpayer first resided in the renaissance zone.

(5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this act.

(6) A qualified taxpayer shall file a withholding form prescribed by the department with his or her employer within 10 days after the date the taxpayer completes the requirements under subsection (11)(d).

(7) If the department finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

(8) Any portion of taxable income derived from illegal activity conducted anywhere shall not be used to calculate a deduction under this section.

(9) The net operating loss deduction allowed under section 30(1)(p) shall be calculated without regard to the deductions allowed under this section.

(10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this act shall be determined separately for income in each status.

(11) As used in this section:

(a) "Domicile" means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.

(b) "Qualified taxpayer" means a taxpayer that is a resident of a renaissance zone and that has gross income not exceeding \$1,000,000.00 for any tax year for which the taxpayer claims a credit under this section.

(c) "Renaissance zone" means that term as defined in Act No. 376 of the Public Acts of 1996.

(d) "Resident" means an individual domiciled in an area that is designated a renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a renaissance zone. Resident includes the estate of an individual who was a resident of a renaissance zone at the time of death. After a taxpayer has completed the 183-day residency requirement under this subdivision, the taxpayer is considered to have been a resident of that renaissance zone beginning from the first day used to determine if the 183-day residency requirement has been met.

History: Add. 1996, Act 448, Imd. Eff. Dec. 19, 1996.

206.32, 206.34 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed sections defined taxable income of corporations and financial institutions.

206.36 "Taxable income" of resident estate or trust defined.

Sec. 36. (1) "Taxable income" in the case of a resident estate or trust means federal taxable income as defined in the internal revenue code subject to the following adjustments:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount which has been excluded from federal taxable income less related expenses not deducted in computing federal taxable income because of section 265 of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at federal taxable income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at federal taxable income.

(d) Deduct, to the extent included in federal taxable income, income derived from obligations, or the sale or exchange of obligations, of the United States government which this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations, and by any expenses incurred in the production of such income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at federal taxable income.

(e) Adjustments resulting from the application of section 271.

(f) Deduct an adjustment resulting from the allocation and apportionment provisions of chapter 3.

(2) The respective shares of an estate or trust and its beneficiaries, including, solely for the purpose of this allocation, nonresident beneficiaries, in the additions and subtractions to taxable income shall be in proportion to their respective shares of distributable net income of the estate or trust as defined in the internal revenue code. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary in the additions and subtractions shall be in proportion to his share of the estate or trust income for the year, under local law or the terms of the instrument, which is required to be distributed currently and any other amounts of such income distributed in the year. Any balance of the additions and subtractions shall be allocated to the estate or trust. If capital gains and losses are distributed or distributable to a beneficiary or beneficiaries under the internal revenue code, the fiduciary shall advise each beneficiary of his share of the adjustment under section 271. The election or failure to elect under section 271 with respect to capital gains and losses taxable to the estate or trust shall not affect the beneficiary's right to elect or not to elect under section 271.

(3) An addition or subtraction shall not be made under this section which has the effect of duplicating an item of income or deduction if the taxpayer establishes to the satisfaction of the commissioner that the item is already reflected in federal taxable income. If an addition or subtraction with respect to the sale or exchange of obligations of the United States government proper adjustment, in accordance with rules promulgated by the commissioner, of the deduction for excess of capital gains over capital losses shall be made.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

CHAPTER 2

206.51 Tax rate on taxable income of person other than a corporation; percentages of revenues deposited in state school aid fund; imposition of annualized rates; computation of taxable income of nonresident; resident beneficiary of trust; tax credit; including items of income and deductions from trust in taxable income; intent of section; appropriation for implementation of requirements; “person other than a corporation” and “taxable income” defined.

Sec. 51. (1) For receiving, earning, or otherwise acquiring income from any source whatsoever, there is levied and imposed upon the taxable income of every person other than a corporation a tax at the following rates in the following circumstances:

(a) Before May 1, 1994, 4.6%.

(b) After April 30, 1994 and before January 1, 2000, 4.4%.

(c) For tax years that begin on and after January 1, 2000 and before January 1, 2002, 4.2%.

(d) For tax years that begin on and after January 1, 2002 and before January 1, 2003, 4.1%.

(e) On and after January 1, 2003 and before July 1, 2004, 4.0%.

(f) On and after July 1, 2004 and before October 1, 2007, 3.9%.

(g) On and after October 1, 2007 and before October 1, 2011, 4.35%.

(h) Beginning on October 1, 2011 and each October 1 after 2011, the maximum rate under this subsection shall be reduced by 0.1 each year until the rate is 3.95%.

(i) On and after October 1, 2015, 3.9%.

(2) The following percentages of the net revenues collected under this section shall be deposited in the state school aid fund created in section 11 of article IX of the state constitution of 1963:

(a) Beginning October 1, 1994 and before October 1, 1996, 14.4% of the gross collections before refunds from the tax levied under this section.

(b) After September 30, 1996 and before January 1, 2000, 23.0% of the gross collections before refunds from the tax levied under this section.

(c) Beginning January 1, 2000, that percentage of the gross collections before refunds from the tax levied under this section that is equal to 1.012% divided by the income tax rate levied under this section.

(3) The department shall annualize rates provided in subsection (1) as necessary for tax years that end after April 30, 1994. The applicable annualized rate shall be imposed upon the taxable income of every person other than a corporation for those tax years.

(4) The taxable income of a nonresident shall be computed in the same manner that the taxable income of a resident is computed, subject to the allocation and apportionment provisions of this act.

(5) A resident beneficiary of a trust whose taxable income includes all or part of an accumulation distribution by a trust, as defined in section 665 of the internal revenue code, shall be allowed a credit against the tax otherwise due under this act. The credit shall be all or a proportionate part of any tax paid by the trust under this act for any preceding taxable year that would not have been payable if the trust had in fact made distribution to its beneficiaries at the times and in the amounts specified in section 666 of the internal revenue code. The credit shall not reduce the tax otherwise due from the beneficiary to an amount less than would have been due if the accumulation distribution were excluded from taxable income.

(6) The taxable income of a resident who is required to include income from a trust in his or her federal income tax return under the provisions of 26 USC 671 to 679, shall include items of income and deductions from the trust in taxable income to the extent required by this act with respect to property owned outright.

(7) It is the intention of this section that the income subject to tax of every person other than corporations shall be computed in like manner and be the same as provided in the internal revenue code subject to adjustments specifically provided for in this act.

(8) There is appropriated to the department of treasury for the 2006-2007 state fiscal year the sum of \$100,000.00 to begin implementing the requirements of the amendatory act that added this subsection. Any portion of this amount under this section that is not expended in the 2006-2007 state fiscal year shall not lapse to the general fund but shall be carried forward in a work project account that is in compliance with section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a, for the following state fiscal year.

(9) As used in this section:

(a) "Person other than a corporation" means a resident or nonresident individual or any of the following:

(i) A partner in a partnership as defined in the internal revenue code.

(ii) A beneficiary of an estate or a trust as defined in the internal revenue code.

(iii) An estate or trust as defined in the internal revenue code.

(b) "Taxable income" means taxable income as defined in this act subject to the applicable source and attribution rules contained in this act.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1971, Act 76, Eff. Aug. 1, 1971;—Am. 1972, Act 181, Eff. Aug. 1, 1972;—Am. 1975, Act 19, Eff. May 1, 1975;—Am. 1977, Act 44, Imd. Eff. June 30, 1977;—Am. 1982, Act 155, Imd. Eff. May 17, 1982;—Am. 1983, Act 15, Imd. Eff. Mar. 29, 1983;—Am. 1984, Act 221, Imd. Eff. July 26, 1984;—Am. 1986, Act 16, Eff. Mar. 26, 1986;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1995, Act 194, Imd. Eff. Nov. 7, 1995;—Am. 1999, Act 1, Imd. Eff. Feb. 25, 1999;—Am. 1999, Act 6, Imd. Eff. Feb. 25, 1999;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

Compiler's note: Section 4 of Act 76 of 1971 provides:

"Expiration of act; conditions.

"Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a special election to be held on November 2, 1971 or at the general election to be held November 1972."

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

Section 51 of Act 250 of 1978, purporting to amend this section, was submitted to and disapproved by the people as part of Proposal E at the general election held on November 4, 1980.

Section 2 of Act 15 of 1983 provides:

"Legislative finding and purpose.

"Section 2. Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment."

206.51a Calculation of tax; credits allowed; annual return not required to be filed; statute of limitations; enforcement of tax collection; reports by department regarding no-form option.

Sec. 51a. (1) Notwithstanding any other provision of this act and for tax years beginning after December 31, 1996, an eligible taxpayer may elect to pay the tax imposed by this act calculated by multiplying taxable compensation, less an amount equal to the personal and dependency exemptions allowed as a subtraction under section 30(2), (3), and (4), by the rate established in section 51.

(2) Except as provided in subsection (1), an eligible taxpayer who elects to pay the tax imposed by this act calculated under this section shall not claim any exemption, deduction, or credit allowed under this act other than the credits allowed under all of the following sections:

- (a) The credit for taxes withheld under section 251.
- (b) The prescription drug credit under section 273.
- (c) The home heating credit under section 527a.

(3) An eligible taxpayer who elects to pay the tax imposed by this act calculated under this section is not required to file an annual return under this act.

(4) An eligible taxpayer who files a withholding exemption certificate to elect to pay the tax imposed by this act calculated under this section may file an annual return and pay the tax calculated under section 51.

(5) The statute of limitations provided in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, begins to run on the date that the annual return is due for the tax year for which the taxpayer has filed an election to pay the tax imposed by this act calculated under this section.

(6) The department may enforce the collection of the tax imposed under this act and calculated under this section to the extent the tax withheld under section 351 is less than the tax imposed by this act and calculated under this section.

(7) For the 1998 tax year and each year after 1998 that the no-form option allowed under this section is in effect, the department shall file a report not later than July 1 with the house tax policy committee and the senate finance committee that contains all of the following information about the taxpayers who elect to pay the tax imposed by this act pursuant to this section:

- (a) The total number of taxpayers.
- (b) The number of taxpayers by county and city.
- (c) The average income of the taxpayers.
- (8) As used in this section:

(a) "Eligible taxpayer" means a resident who meets both of the following criteria:

(i) Has income for the tax year in total or from any 1 source, other than taxable compensation or income described in subdivision (b), (i), (ii), or (iii), of less than \$100.00 for a single return or \$200.00 for a joint return.

(ii) Has filed a withholding exemption certificate to elect to pay the tax imposed by this act calculated under this section for the tax year.

(b) "Taxable compensation" means compensation from which tax has been withheld pursuant to section 351(1) or (7), except the following:

- (i) Compensation described in section 30(1)(e) or 30(1)(f)(i).
- (ii) Social security benefits as defined in section 86 of the internal revenue code.
- (iii) Retirement benefits, pension benefits, or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, other than benefits described in section 30(1)(e) or 30(1)(f)(i), or described in section 86 of the internal revenue code, not to exceed the amounts allowed as a deduction under section 30(1)(f)(v).

History: Add. 1996, Act 265, Imd. Eff. June 12, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

206.51b Repealed. 2000, Act 40, Imd. Eff. Mar. 27, 2000.

Compiler's note: The repealed section pertained to income tax rate other than corporation and its levy and imposition.

206.51c-206.51e Repealed. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

Compiler's note: The repealed sections pertained to income tax rates other than for corporations.

206.52 Exemption.

Sec. 52. For tax years beginning after 1986, a person with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year is not considered to have an allowable federal exemption for purposes of section 30(2) and, notwithstanding sections 51 and 315, if that person has an adjusted gross income for that tax year of \$1,500.00 or less, is exempt from the tax levied and imposed in section 51 and is not required to file a return under this act.

History: Add. 1988, Act 1, Imd. Eff. Jan. 22, 1988.

206.61-206.81 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed sections pertained to taxes imposed on corporations, financial institutions, and unincorporated organizations.

206.91 Common trust funds and participants; taxable status.

Sec. 91. (1) A common trust fund meeting the requirements of section 584 of the internal revenue code, shall not be subject to tax under this act.

(2) Each participant in the common trust fund shall, under rules prescribed by the department, include its proportionate share of the taxable income whether or not distributed and whether or not distributable.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

CHAPTER 3

206.101 Repealed. 1970, Act 140, Imd. Eff. Aug. 1, 1970.

Compiler's note: The repealed section pertained to taxable income attributable to Michigan.

206.102 Income producing activities solely in Michigan.

Sec. 102. In the case of taxable income of a taxpayer whose income-producing activities are confined solely to this state, the entire taxable income of such taxpayer shall be allocated to this state, except as otherwise expressly provided in this act.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.103 Taxable income partly attributable to Michigan.

Sec. 103. Any taxpayer having income from business activity which is taxable both within and without this state, other than the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this act.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1970, Act 140, Imd. Eff. Aug. 1, 1970.

206.105 Allocation and apportionment of business income taxable in another state.

Sec. 105. For purposes of allocation and apportionment of income from business activity under this act, a taxpayer is taxable in another state if (a) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax, or (b) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.110 Taxable income of individuals, estates, or trusts; allocation; rents and royalties.

Sec. 110. (1) For a resident individual, estate, or trust, all taxable income from any source whatsoever, except that attributable to another state under sections 111 to 115 and subject to section 255, is allocated to this state.

(2) For a nonresident individual, estate, or trust, all taxable income is allocated to this state to the extent it is earned, received, or acquired in 1 or more of the following ways:

(a) For the rendition of personal services performed in this state.

(b) As a distributive share of the net profits of a business, profession, enterprise, undertaking, or other activity as the result of work done, services rendered, or other business activities conducted in this state, except as allocated to another state pursuant to sections 111 to 114 and subject to section 256.

(c) For tax years beginning after 1996, as a prize won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(d) As winnings that are proceeds of a wagering transaction paid on or after October 1, 2003 by a casino or as a payoff price on a winning ticket that is the result of pari-mutuel wagering at a licensed race meeting if the casino or licensed race meeting is located in this state. As used in this section:

(i) "Casino" means a casino regulated by this state under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, or a building on Native American land or land held in trust by the United States for a federally recognized Indian tribe on which gaming is conducted under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467.

(ii) "Pari-mutuel wagering" and "licensed race meeting" mean those terms as used in the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

(3) The respective shares of a nonresident estate or trust and its beneficiaries, including, solely for purposes of allocation, resident and nonresident beneficiaries, in the income attributable to this state shall be in

proportion to the respective shares of distributable net income of the beneficiaries under the internal revenue code. If the estate or trust has no distributable net income for the tax year, the share of each beneficiary in the income attributable to this state shall be in proportion to his or her share of the estate or trust income for that year, under local law or the terms of the instrument, that is required to be distributed currently and other amounts of the income distributed in the year. Any balance of the income attributable to this state shall be allocated to the estate or trust.

(4) A nonresident estate or trust is allowed the credit provided in section 256, except that the limitation shall be computed by reference to the taxable income of the estate or trust.

(5) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute a nonbusiness income, shall be allocated as provided in sections 111 to 114.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2003, Act 21, Imd. Eff. June 24, 2003.

206.111 Rents and royalties; allocation.

Sec. 111. (1) Net rents and royalties from real property located in this state are allocable to this state.

(2) Net rents and royalties from tangible personal property are allocable to this state:

(a) If and to the extent that the property is utilized in this state; or

(b) In their entirety if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(3) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.112 Capital gains and losses.

Sec. 112. (1) Capital gains and losses from sales or exchanges of real property located in this state are allocable to this state.

(2) Capital gains and losses from sales or exchanges of tangible personal property are allocable to this state if:

(a) The property had a situs in this state at the time of the sale; or

(b) The taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state and the taxpayer is not taxable in the state in which the property had a situs.

(3) Capital gains and losses from sales or exchanges of intangible personal property are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.113 Interest and dividends; allocation.

Sec. 113. Interest and dividends are allocable to this state if the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.114 Patent and copyright royalties; allocation.

Sec. 114. (1) Patent and copyright royalties are allocable to this state:

(a) If and to the extent that the patent or copyright is utilized by the payer in this state; or

(b) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer is a resident partnership, estate or trust or individual of this state or has a commercial domicile in this state.

(2) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in this state if the taxpayer is a resident partnership, estate or trust or

individual or has a commercial domicile in this state.

(3) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in this state if the taxpayer is a resident partnership, estate or trust or individual or has a commercial domicile in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.115 Apportionment of business income; exception; computation.

Sec. 115. All business income, other than income from transportation services shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is 3.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.116 Property factor; determination.

Sec. 116. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.117 Property; value, rental rate.

Sec. 117. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.118 Property; average value.

Sec. 118. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the commissioner may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.119 Payroll factor; determination.

Sec. 119. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.120 Compensation paid in state of Michigan.

Sec. 120. Compensation is paid in this state if:

- (a) The individual's service is performed entirely within the state; or
- (b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
- (c) Some of the service is performed in the state and (i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is in the state, or (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.121 Sales factor; determination.

Sec. 121. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.122 Sales of tangible personal property within Michigan.

Sec. 122. Sales of tangible personal property are in this state if:

- (a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and (i) the purchaser is the United States government or (ii) the taxpayer is not taxable in the state of the purchaser.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.123 Sales other than sales of tangible personalty within state.

Sec. 123. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than outside this state, based on costs of performance.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.125 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed section pertained to taxable income of domestic insurers.

206.131 Transportation services; sections applicable.

Sec. 131. The taxable income of a taxpayer whose income-producing activities consist of transportation services rendered partly within and partly without the state shall be determined under the provisions of sections 132 to 134.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.132 Transportation other than of oil or gas by pipeline; revenue mile; taxable income.

Sec. 132. In the case of such taxable income other than that derived from the transportation of oil or gas by pipeline, that portion of the net income of the taxpayer derived from transportation services wherever performed that the revenue miles of the taxpayer in Michigan bear to the revenue miles of the taxpayer everywhere. A revenue mile means the transportation for a consideration of 1 net ton in weight or 1 passenger the distance of 1 mile. The taxable income attributable to Michigan sources in the case of a taxpayer engaged in the transportation both of property and of individuals shall be that portion of the entire net income of the taxpayer which is equal to the average of his passenger miles and ton mile fractions, separately computed and individually weighted by the ratio of gross receipts from passenger transportation to total gross receipts from all transportation, and by the ratio of gross receipts from freight transportation to total gross receipts from all transportation, respectively. If it is shown to the satisfaction of the commissioner that the foregoing information is not available or cannot be obtained without unreasonable expense to the taxpayer, the commissioner may use such other data which may be available and which in the opinion of the commissioner will result in an equitable allocation of such receipts to this state.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.133 Transportation of oil by pipeline; taxable income.

Sec. 133. In the case of taxable income derived from the transportation of oil by pipeline, that portion of the net income of the taxpayer derived from the pipeline transportation of oil everywhere that the barrel miles transported in Michigan bear to the barrel miles transported by the taxpayer everywhere.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.134 Transportation of gas by pipeline; taxable income.

Sec. 134. In the case of taxable income derived from the transportation of gas by pipeline, net income attributable to Michigan shall be that portion of the taxable income of the taxpayer derived from the pipeline transportation of gas everywhere that the thousand cubic feet miles transported in Michigan bear to the thousand cubic feet miles transported by the taxpayer everywhere.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.151 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed section pertained to taxable income of financial organizations.

206.191 Sales not exceeding \$100,000; taxable income.

Sec. 191. (1) If the taxpayer's only activities within this state consist of sales and do not include owning or renting real estate or tangible personal property and whose dollar volume of gross sales made during the tax year within the state is not in excess of \$100,000.00 the taxpayer may elect for that year:

(a) To report and pay a tax on net income arrived at by multiplying total sales in this state for the taxable year by the ratio of net income from operations to total sales as reported on his federal income tax return for

the same taxable year; or

(b) Report and pay a tax of 2/5 of 1% on total sales in this state, whichever method reflects the lesser tax liability.

(2) The election is not available for any taxable year for which a consolidated return is required.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.195 Alternative methods of allocation and apportionment; approval.

Sec. 195. If the allocation and apportionment provisions of this act do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commissioner may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of 1 or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's taxable income.

An alternative method will be effective only with approval by the commissioner.

History: 1967, Act 281, Eff. Oct. 1, 1967.

CHAPTER 4

206.201 Exemption of persons exempt from federal income tax; exceptions.

Sec. 201. (1) A person who is exempt from federal income tax pursuant to the provisions of the internal revenue code shall be exempt from the tax imposed by this act except the unrelated taxable business income of an exempt person as determined under the internal revenue code.

(2) Nothing in this section shall exempt a person from the withholding and information return provisions of this act.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.211, 206.221 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed sections pertained to exemptions for foreign or alien insurers and for nonresident financial institutions.

CHAPTER 5

206.251 Credit for taxes withheld; election to treat as total tax.

Sec. 251. (1) The amount withheld under section 351 shall be allowed to the recipient of the compensation as a credit against the tax imposed on him by this act.

(2) The amount so withheld during any calendar year shall be allowed as a credit for the taxable year beginning in such calendar year. If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.252 Headlee amendment refund.

Sec. 252. (1) For the 1995 tax year only, a taxpayer may claim a credit against the tax imposed under this act equal to 2.67% of the tax imposed on the taxpayer's taxable income attributable to the period of January 1, 1995 through September 30, 1995. The annualized credit percentage is 2% for taxpayers whose 1995 tax year is the 1995 calendar year. The department shall annualize the credit percentage as necessary for all other taxpayers.

(2) The credit allowed under this section shall be taken before any other credit under this act.

(3) The credit allowed under this section shall be known as "the Headlee amendment refund".

History: Add. 1995, Act 245, Imd. Eff. Dec. 27, 1995.

206.255 Credit for tax imposed by another state, District of Columbia, or Canadian province; allowance of Canadian provincial credit; maximum credit.

Sec. 255. (1) A resident individual or resident estate or trust is allowed a credit against the tax due under this act for the amount of an income tax imposed on the resident individual or resident estate or trust for the tax year by another state of the United States, a political subdivision of another state of the United States, the District of Columbia, or a Canadian province, on income derived from sources outside this state that is also

subject to tax under this act or the amount determined under subsection (3), whichever is less. For purposes of the Canadian provincial credit, the credit is allowed for only that portion of the provincial tax not claimed as a credit for federal income tax purposes. It is presumed that the Canadian federal income tax is claimed first. The provincial tax claimed as a carryover deduction as provided in the internal revenue code is not allowed as a credit under this section.

(2) The Canadian provincial credit shall be allowed for the 1978 tax year and for each tax year after 1978.

(3) The credit under this section shall not exceed an amount determined by dividing income that is subject to taxation both in this state and in another jurisdiction by taxable income and then multiplying that result by the taxpayer's tax liability before any credits are deducted.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1978, Act 589, Imd. Eff. Jan. 4, 1979;—Am. 1979, Act 30, Imd. Eff. June 14, 1979;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

Compiler's note: Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

206.256 Tax exemption in other states by nonresidents; reciprocal agreement.

Sec. 256. For a nonresident individual, estate, or trust, if the laws of the state of residence exempt a resident of this state from liability for the payment of income taxes on income earned for personal services performed in that state, the commissioner may enter into a reciprocal agreement with that state to provide a similar tax exemption for that state's residents on income earned for personal services performed in this state.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

206.257 Credit for city income taxes.

Sec. 257. (1) For city income taxes becoming due and payable for periods ending after December 31, 1967, each person subject to the tax levied by section 51 shall be allowed a credit computed by the table set out in this section for city income taxes deductible in the person's tax year for federal income tax purposes pursuant to section 164 of the internal revenue code, or which would have been deductible in his or her tax year if he or she had not elected the standard deduction. If the amount of city income taxes used as a basis for the credit computation differs from the city income tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference between the city income taxes used as a basis for the credit computation and the city income taxes incurred and paid by the taxpayer for the tax year. City income taxes means the taxes levied under the city income tax act, Act No. 284 of the Public Acts of 1964, as amended, being sections 141.501 to 141.787 of the Michigan Compiled Laws, and, for purposes of this section, does not include penalties or interest. A credit shall not be allowed for city income taxes, other than estimated payments, which are delinquent on January 1, 1968. For a return of less than 12 months, the credit shall be reduced proportionately. The credit allowed by section 260 and this section shall not be in excess of the tax liability of the taxpayer.

(2) The credit shall be computed as follows:

If the total city income tax is:
\$100.00 or less
Over \$100.00 but not over \$150.00

Over \$150.00

The credit shall be:
20% of the city income taxes
\$20.00 plus 10% of the excess
over \$100.00
\$25.00 plus 5% of the excess
over \$150.00, but the total
credit shall not exceed
\$10,000.00.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1970, Act 101, Imd. Eff. July 20, 1970;—Am. 1970, Act 233, Imd. Eff. Dec. 3, 1970;—Am. 1971, Act 76, Imd. Eff. July 30, 1971;—Am. 1972, Act 181, Eff. Aug. 1, 1972;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

Compiler's note: Section 4 of Act 76 of 1971 provides:

"Expiration of act; conditions.

"Section 4. The provisions of this amendatory act shall expire August 1, 1972 unless prior thereto the legislature has submitted to the electors constitutional amendments which shall (a) grant property tax relief by limiting of levying of more than 10 mills on property for school operational purposes, (b) permit the legislature to enact taxes on income graduated either as to rate or base or both, or (c) a combination of (a) and (b) as one amendment and (a) as a separate amendment and which said amendments shall be voted upon at a

special election to be held on November 2, 1971 or at the general election to be held November 1972.”

The legislature did not submit to the electors at a November 2, 1971 special election or at the November, 1972 general election proposed constitutional amendment(s) to effect the purposes enumerated in Section 4 of Act 76 of 1971.

206.258 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed section pertained to credit for personal property taxes paid on inventories.

206.260 Tax credit for certain charitable contributions; limitations; definitions; limitation on sum of credits.

Sec. 260. (1) A taxpayer may credit against the tax imposed by this act for the tax year, an amount, subject to the applicable limitations provided by this section, equal to 50% of the aggregate amount of charitable contributions made by the taxpayer during the tax year to any of the following:

(a) This state pursuant to the Faxon-McNamee art in public places act, Act No. 105 of the Public Acts of 1980, being sections 18.71 to 18.81 of the Michigan Compiled Laws, of an artwork created by the taxpayer, for display in a public place.

(b) The state art in public places fund created pursuant to Act No. 105 of the Public Acts of 1980.

(c) A municipality in this state of an artwork created by the personal effort of the taxpayer for display in a public place.

(d) Either a municipality of this state or a nonprofit corporation affiliated with both a municipality and an art institute located in the municipality, of money or artwork, whether or not created by the personal effort of the taxpayer, if for the purpose of benefiting an art institute located in that municipality.

(e) A public library.

(f) A public broadcast station as defined by section 397 of subpart d of title III of the communications act of 1934, 47 U.S.C. 397, that is not affiliated with an institution of higher education and that is located within this state.

(g) An institution of higher learning located within this state.

(h) The Michigan colleges foundation.

(i) The state museum.

(j) The department of state for the purpose of preservation of the state archives.

(k) A nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within this state. A tax credit for a contribution described in this subdivision is permitted only if the donee corporation, fund, foundation, trust, or association is controlled or approved and reviewed by the governing board of the institution benefiting from the charitable contribution. The nonprofit corporation, fund, foundation, trust, or association shall provide copies of its annual independently audited financial statements to the auditor general of this state and chairpersons of the senate and house appropriations committees.

(2) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed \$100.00, or for a husband and wife filing a joint return as provided in section 311, \$200.00.

(3) For a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed 10% of the tax liability for the year as determined without regard to this section or \$5,000.00, whichever is less and shall not have been deducted in arriving at federal taxable income.

(4) As used in this section:

(a) “Institution of higher learning” means only an educational institution located within this state that meets all of the following requirements:

(i) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(ii) It regularly offers education above the twelfth grade.

(iii) It awards associate, bachelors, masters, or doctoral degrees or a combination of those degrees or higher education credits acceptable for those degrees granted by other institutions of higher learning.

(iv) It is recognized by the state board of education as an institution of higher learning and appears as an institution of higher learning in the annual publication of the department of education entitled “The Directory of Institutions of Higher Education”.

(b) “Public library” means that term as defined in section 2 of the state aid to public libraries act, Act No. 89 of the Public Acts of 1977, being section 397.552 of the Michigan Compiled Laws.

(c) “Contributions made by the taxpayer” means, but is not limited to, the fair market value of artwork created by the personal effort of the taxpayer that is donated to and accepted as a donation by a qualified organization. The fair market value of a piece of artwork shall be determined at the time of the donation by independent appraisal.

(d) "Artwork" means an original, visual creation of quality executed in any size or shape, in any media, using any kind or type of materials.

(5) The sum of the credits allowed by section 257 and this section shall not exceed the tax liability of the taxpayer.

History: Add. 1968, Act 315, Eff. Nov. 15, 1968;—Am. 1972, Act 332, Imd. Eff. Jan. 4, 1973;—Am. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 290, Imd. Eff. Oct. 15, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 199, Eff. Mar. 27, 1980;—Am. 1980, Act 475, Eff. Mar. 31, 1981;—Am. 1984, Act 419, Imd. Eff. Dec. 28, 1984;—Am. 1988, Act 153, Imd. Eff. June 14, 1988;—Am. 1996, Act 484, Eff. Jan. 1, 1997.

Compiler's note: Section 2 of Act 153 of 1988 provides: "This amendatory act shall take effect for tax years beginning after 1987."

206.261 Tax credit for 50% of contribution to endowment fund of community foundation or other entity providing overnight accommodation, food, or meals to indigents; limitations; credits nonrefundable; "community foundation" defined; other entities qualifying for credit; endowment value; report.

Sec. 261. (1) For the 1989 tax year and each tax year after 1989 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the amount the taxpayer contributes during the tax year to an endowment fund of a community foundation or for the 1992 tax year and each tax year after 1992 and subject to the applicable limitations in this section, a taxpayer may credit against the tax imposed by this act 50% of the cash amount the taxpayer contributes during the tax year to a shelter for homeless persons, food kitchen, food bank, or other entity located in this state, the primary purpose of which is to provide overnight accommodation, food, or meals to persons who are indigent if a contribution to that entity is tax deductible for the donor under the internal revenue code.

(2) For a taxpayer other than a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed \$100.00, or \$200.00 for a husband and wife filing a joint return for tax years before the 2000 tax year and \$100.00 or \$200.00 for a husband and wife filing a joint return for tax years after the 1999 tax year. For the 1992 tax year and each tax year after 1992, a taxpayer may claim an additional credit under this section not to exceed \$100.00, or \$200.00 for a husband and wife filing a joint return, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the credit allowed by this section for a contribution to a community foundation shall not exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less. For the 1992 tax year and each tax year after 1992, a resident estate or trust may claim an additional credit under this section not to exceed 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by this act or \$5,000.00, whichever is less, for total cash contributions made in the tax year to shelters for homeless persons, food kitchens, food banks, and, except for community foundations, other entities allowed under subsection (1). For a resident estate or trust, the amount used to calculate the credits under this section shall not have been deducted in arriving at federal taxable income.

(3) The credits allowed under this section are nonrefundable so that a taxpayer shall not claim under this section a total credit amount that reduces the taxpayer's tax liability to less than zero.

(4) As used in this section, "community foundation" means an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit and that the department certifies for that tax year as meeting all of the following requirements:

(a) Qualifies for exemption from federal income taxation under section 501(c)(3) of the internal revenue code.

(b) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality or county.

(c) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.

(d) Is publicly supported as defined by the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(10). To maintain certification, the community foundation shall submit documentation to the department annually that demonstrates compliance with this subdivision.

(e) Is not a supporting organization as an organization is described in section 509(a)(3) of the internal revenue code and the regulations of the United States department of treasury, 26 CFR 1.509(a)-4 and 1.509(a)-5.

(f) Meets the requirements for treatment as a single entity contained in the regulations of the United States department of treasury, 26 CFR 1.170A-9(e)(11).

(g) Except as provided in subsection (6), is incorporated or established as a trust at least 6 months before the beginning of the tax year for which the credit under this section is claimed and that has an endowment

value of at least \$100,000.00 before the expiration of 18 months after the community foundation is incorporated or established.

(h) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(i) Provides evidence to the department that the community foundation has, before the expiration of 6 months after the community foundation is incorporated or established, and maintains continually during the tax year for which the credit under this section is claimed, at least 1 part-time or full-time employee.

(j) For community foundations that have an endowment value of \$1,000,000.00 or more only, the community foundation is subject to an annual independent financial audit and provides copies of that audit to the department not more than 3 months after the completion of the audit. For community foundations that have an endowment value of less than \$1,000,000.00, the community foundation is subject to an annual review and an audit every third year.

(k) In addition to all other criteria listed in this subsection for a community foundation that is incorporated or established after the effective date of the amendatory act that added this subdivision, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing certified community foundation.

(5) An entity other than a community foundation may request that the department determine if a contribution to that entity qualifies for the credit under this section. The department shall make a determination and respond to a request no later than 30 days after the department receives the request.

(6) A taxpayer may claim a credit under this section for contributions to a community foundation made before the expiration of the 18-month period after a community foundation was incorporated or established during which the community foundation must build an endowment value of \$100,000.00 as provided in subsection (4)(g). If the community foundation does not reach the required \$100,000.00 endowment value during that 18-month period, contributions to the community foundation made after the date on which the 18-month period expires shall not be used to calculate a credit under this section. At any time after the expiration of the 18-month period under subsection (4)(g) that the community foundation has an endowment value of \$100,000.00, the community foundation may apply to the department for certification under this section.

(7) On or before July 1 of each year, the department shall report to the house committee on tax policy and the senate finance committee the total amount of tax credits claimed under this section and under section 38c of the single business tax act, 1975 PA 228, MCL 208.38c, or section 425 of the Michigan business tax act, 2007 PA 36, MCL 208.1425, for the immediately preceding tax year.

History: Add. 1988, Act 515, Imd. Eff. Dec. 29, 1988;—Am. 1990, Act 136, Imd. Eff. June 26, 1990;—Am. 1991, Act 171, Imd. Eff. Dec. 20, 1991;—Am. 1993, Act 315, Imd. Eff. Dec. 29, 1993;—Am. 1994, Act 256, Imd. Eff. July 5, 1994;—Am. 1996, Act 484, Eff. Jan. 1, 1997;—Am. 2000, Act 195, Imd. Eff. June 22, 2000;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

Compiler's note: Section 2 of Act 136 of 1990 provides: "This amendatory act shall apply to tax years after 1989."

Section 2 of Act 171 of 1991 provides: "Section 2. Not later than June 30, 1993, the department shall issue to the house committee on taxation and the senate committee on finance a comprehensive report and make recommendations regarding the reform of tax laws that will stimulate charitable giving and be equitable to all community charities."

206.262 Repealed. 1996, Act 484, Eff. Jan. 1, 1997.

Compiler's note: The repealed section pertained to tax credits for solar, wind, or water energy conversion devices.

206.263 Repealed. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: The repealed section pertained to agricultural products gleaned from agricultural property.

206.264 Contribution to medical care savings account; credit against tax; definitions.

Sec. 264. (1) For the 1994 tax year and each tax year after 1994, a taxpayer, other than a resident estate or trust, may credit against the tax imposed by this act an amount equal to 3.3% of the amount contributed in the tax year by the taxpayer or on behalf of the taxpayer to a medical care savings account to the extent that the contribution is accepted by an account administrator pursuant to the medical care savings account act.

(2) The credit under this section shall not be taken unless the taxpayer who establishes a medical care savings account or on whose behalf a medical care savings account is established is not covered by any health coverage policy, certificate, or contract or self-funded plan other than a qualified higher deductible health plan purchased pursuant to the medical care savings account act.

(3) If the taxpayer files a joint return, each joint filer may take the credit under this section if he or she meets the restriction under subsection (2). If the taxpayer is married and files a single return or is not married, the taxpayer may take the credit under this section if he or she meets the restriction under subsection (2).

(4) A taxpayer shall deduct from the amount of a contribution used to calculate the credit under this section any amount that the taxpayer withdraws in the tax year for a purpose other than 1 of the following:

(a) A purpose for which those funds may be utilized as described in section 4(3) of the medical care savings account act, being section 550.984 of the Michigan Compiled Laws.

(b) A distribution or transfer pursuant to section 5(3) or (5) of the medical care savings act, being section 550.985 of the Michigan Compiled Laws.

(5) If the amount of the credit exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(6) The credit under this section shall not be taken by a taxpayer in the tax year in which a federal income tax deduction or credit becomes available for contributions to a medical care savings account or any similar federal program or in any subsequent year.

(7) As used in this section:

(a) "Account administrator" and "medical care savings account" mean those terms as defined in the medical care savings account act.

(b) "Medical care savings account act" means the medical care savings account act, Act No. 289 of the Public Acts of 1994, being sections 550.981 to 550.988 of the Michigan Compiled Laws.

History: Add. 1994, Act 290, Imd. Eff. July 13, 1994;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

206.265 Credit against tax; determining amount; eligibility; limitation; refund.

Sec. 265. (1) For the 1989 tax year and each tax year after 1989, a taxpayer may credit against the tax imposed by this act for the tax year an amount equal to the tax paid in any prior tax year attributable to income received by the taxpayer in any prior tax year and repaid by the taxpayer during the tax year if the taxpayer is eligible for a deduction or credit against his or her federal tax liability pursuant to section 1341 of the internal revenue code based on the repayment for the tax year. A credit under this section for a tax year is allowed only if the repayment for which a deduction or credit was taken pursuant to section 1341 of the internal revenue code is not deducted in calculating the taxpayer's adjusted gross income for the tax year.

(2) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

History: Add. 1993, Act 128, Imd. Eff. July 22, 1993;—Am. 1998, Act 19, Imd. Eff. Mar. 12, 1998.

Compiler's note: Enacting section 1 of Act 19 of 1998 provides:

"This amendatory act is effective for tax years beginning after 1988."

206.266 Rehabilitation of historic resource; tax credit; plan; certification; report; definitions.

Sec. 266. (1) A qualified taxpayer with a rehabilitation plan certified after December 31, 1998 may credit against the tax imposed by this act the amount determined pursuant to subsection (2) for the qualified expenditures for the rehabilitation of a historic resource pursuant to the rehabilitation plan in the year in which the certification of completed rehabilitation of the historic resource is issued provided that the certification of completed rehabilitation was issued not more than 5 years after the rehabilitation plan was certified by the Michigan historical center.

(2) The credit allowed under this section shall be 25% of the qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, 25% of the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, subject to both of the following:

(a) A taxpayer with qualified expenditures that are eligible for the credit under section 47(a)(2) of the internal revenue code may not claim a credit under this section for those qualified expenditures unless the taxpayer has claimed and received a credit for those qualified expenditures under section 47(a)(2) of the internal revenue code.

(b) A credit under this section shall be reduced by the amount of a credit received by the taxpayer for the same qualified expenditures under section 47(a)(2) of the internal revenue code.

(3) To be eligible for the credit under this section, the taxpayer shall apply to and receive from the Michigan historical center certification that the historic significance, the rehabilitation plan, and the completed rehabilitation of the historic resource meet the criteria under subsection (6) and either of the following:

- (a) All of the following criteria:
 - (i) The historic resource contributes to the significance of the historic district in which it is located.
 - (ii) Both the rehabilitation plan and completed rehabilitation of the historic resource meet the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, 36 CFR part 67.
 - (iii) All rehabilitation work has been done to or within the walls, boundaries, or structures of the historic resource or to historic resources located within the property boundaries of the resource.
- (b) The taxpayer has received certification from the national park service that the historic resource's significance, the rehabilitation plan, and the completed rehabilitation qualify for the credit allowed under section 47(a)(2) of the internal revenue code.
- (4) If a qualified taxpayer is eligible for the credit allowed under section 47(a)(2) of the internal revenue code, the qualified taxpayer shall file for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code. If the qualified taxpayer has previously filed for certification with the center to qualify for the credit allowed under section 47(a)(2) of the internal revenue code, additional filing for the credit allowed under this section is not required.
- (5) The center may inspect a historic resource at any time during the rehabilitation process and may revoke certification of completed rehabilitation if the rehabilitation was not undertaken as represented in the rehabilitation plan or if unapproved alterations to the completed rehabilitation are made during the 5 years after the tax year in which the credit was claimed. The center shall promptly notify the department of a revocation.
- (6) Qualified expenditures for the rehabilitation of a historic resource may be used to calculate the credit under this section if the historic resource meets 1 of the criteria listed in subdivision (a) and 1 of the criteria listed in subdivision (b):
 - (a) The resource is 1 of the following during the tax year in which a credit under this section is claimed for those qualified expenditures:
 - (i) Individually listed on the national register of historic places or state register of historic sites.
 - (ii) A contributing resource located within a historic district listed on the national register of historic places or the state register of historic sites.
 - (iii) A contributing resource located within a historic district designated by a local unit pursuant to an ordinance adopted under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.
 - (b) The resource meets 1 of the following criteria during the tax year in which a credit under this section is claimed for those qualified expenditures:
 - (i) The historic resource is located in a designated historic district in a local unit of government with an existing ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.
 - (ii) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and has a population of less than 5,000.
 - (iii) The historic resource is located in an unincorporated local unit of government.
 - (iv) The historic resource is located in an incorporated local unit of government that does not have an ordinance under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215, and is located within the boundaries of an association that has been chartered under 1889 PA 39, MCL 455.51 to 455.72.
- (7) A credit amount assigned under section 39c(7) of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, may be claimed against the partner's, member's, or shareholder's tax liability under this act as provided in section 39c(7) of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435.
- (8) If the credit allowed under this section for the tax year and any unused carryforward of the credit allowed by this section exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.
- (9) If the taxpayer sells a historic resource for which a credit under this section was claimed less than 5 years after the year in which the credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the sale:
 - (a) If the sale is less than 1 year after the year in which the credit was claimed, 100%.
 - (b) If the sale is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
 - (c) If the sale is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
 - (d) If the sale is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.

- (e) If the sale is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
- (f) If the sale is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.
- (10) If a certification of completed rehabilitation is revoked under subsection (5) less than 5 years after the year in which a credit was claimed, the following percentage of the credit amount previously claimed relative to that historic resource shall be added back to the tax liability of the taxpayer in the year of the revocation:
 - (a) If the revocation is less than 1 year after the year in which the credit was claimed, 100%.
 - (b) If the revocation is at least 1 year but less than 2 years after the year in which the credit was claimed, 80%.
 - (c) If the revocation is at least 2 years but less than 3 years after the year in which the credit was claimed, 60%.
 - (d) If the revocation is at least 3 years but less than 4 years after the year in which the credit was claimed, 40%.
 - (e) If the revocation is at least 4 years but less than 5 years after the year in which the credit was claimed, 20%.
 - (f) If the revocation is 5 years or more after the year in which the credit was claimed, an addback to the taxpayer's tax liability shall not be made.
- (11) The department of history, arts, and libraries through the Michigan historical center may impose a fee to cover the administrative cost of implementing the program under this section.
- (12) The qualified taxpayer shall attach all of the following to the qualified taxpayer's annual return under this act:
 - (a) Certification of completed rehabilitation.
 - (b) Certification of historic significance related to the historic resource and the qualified expenditures used to claim a credit under this section.
 - (c) A completed assignment form if the qualified taxpayer is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, of any portion of a credit allowed under that section.
- (13) The department of history, arts, and libraries shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (14) The total of the credits claimed under this section and section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, for a rehabilitation project shall not exceed 25% of the total qualified expenditures eligible for the credit under this section for that rehabilitation project.
- (15) The department of history, arts, and libraries through the Michigan historical center shall report all of the following to the legislature annually for the immediately preceding state fiscal year:
 - (a) The fee schedule used by the center and the total amount of fees collected.
 - (b) A description of each rehabilitation project certified.
 - (c) The location of each new and ongoing rehabilitation project.
- (16) As used in this section:
 - (a) "Contributing resource" means a historic resource that contributes to the significance of the historic district in which it is located.
 - (b) "Historic district" means an area, or group of areas not necessarily having contiguous boundaries, that contains 1 resource or a group of resources that are related by history, architecture, archaeology, engineering, or culture.
 - (c) "Historic resource" means a publicly or privately owned historic building, structure, site, object, feature, or open space located within a historic district designated by the national register of historic places, the state register of historic sites, or a local unit acting under the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215; or that is individually listed on the state register of historic sites or national register of historic places and includes all of the following:
 - (i) An owner-occupied personal residence or a historic resource located within the property boundaries of that personal residence.
 - (ii) An income-producing commercial, industrial, or residential resource or a historic resource located within the property boundaries of that resource.
 - (iii) A resource owned by a governmental body, nonprofit organization, or tax-exempt entity that is used primarily by a taxpayer lessee in a trade or business unrelated to the governmental body, nonprofit organization, or tax-exempt entity and that is subject to tax under this act.
 - (iv) A resource that is occupied or utilized by a governmental body, nonprofit organization, or tax-exempt entity pursuant to a long-term lease or lease with option to buy agreement.

- (v) Any other resource that could benefit from rehabilitation.
- (d) "Local unit" means a county, city, village, or township.
- (e) "Long-term lease" means a lease term of at least 27.5 years for a residential resource or at least 31.5 years for a nonresidential resource.
- (f) "Michigan historical center" or "center" means the state historic preservation office of the Michigan historical center of the department of history, arts, and libraries or its successor agency.
- (g) "Open space" means undeveloped land, a naturally landscaped area, or a formal or man-made landscaped area that provides a connective link or a buffer between other resources.
- (h) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.
- (i) "Qualified expenditures" means capital expenditures that qualify for a rehabilitation credit under section 47(a)(2) of the internal revenue code if the taxpayer is eligible for the credit under section 47(a)(2) of the internal revenue code or, if the taxpayer is not eligible for the credit under section 47(a)(2) of the internal revenue code, the qualified expenditures that would qualify under section 47(a)(2) of the internal revenue code except that the expenditures are made to a historic resource that is not eligible for the credit under section 47(a)(2) of the internal revenue code, that were paid not more than 5 years after the certification of the rehabilitation plan that included those expenditures was approved by the center, and that were paid after December 31, 1998 for the rehabilitation of a historic resource. Qualified expenditures do not include capital expenditures for nonhistoric additions to a historic resource except an addition that is required by state or federal regulations that relate to historic preservation, safety, or accessibility.
- (j) "Qualified taxpayer" means a person that is an assignee under section 39c of the single business tax act, 1975 PA 228, MCL 208.39c, or section 435 of the Michigan business tax act, 2007 PA 36, MCL 208.1435, or either owns the resource to be rehabilitated or has a long-term lease agreement with the owner of the historic resource and that has qualified expenditures for the rehabilitation of the historic resource equal to or greater than 10% of the state equalized valuation of the property. If the historic resource to be rehabilitated is a portion of a historic or nonhistoric resource, the state equalized valuation of only that portion of the property shall be used for purposes of this subdivision. If the assessor for the local tax collecting unit in which the historic resource is located determines the state equalized valuation of that portion, that assessor's determination shall be used for purposes of this subdivision. If the assessor does not determine that state equalized valuation of that portion, qualified expenditures, for purposes of this subdivision, shall be equal to or greater than 5% of the appraised value as determined by a certified appraiser. If the historic resource to be rehabilitated does not have a state equalized valuation, qualified expenditures for purposes of this subdivision shall be equal to or greater than 5% of the appraised value of the resource as determined by a certified appraiser.
- (k) "Rehabilitation plan" means a plan for the rehabilitation of a historic resource that meets the federal secretary of the interior's standards for rehabilitation and guidelines for rehabilitation of historic buildings under 36 CFR part 67.

History: Add. 1998, Act 535, Imd. Eff. Jan. 19, 1999;—Am. 1999, Act 214, Imd. Eff. Dec. 28, 1999;—Am. 2001, Act 70, Imd. Eff. July 24, 2001;—Am. 2006, Act 52, Imd. Eff. Mar. 9, 2006;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

Compiler's note: Enacting section 1 of Act 52 of 2006 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2004."

Administrative rules: R 206.151 et seq. of the Michigan Administrative Code.

206.267 Tax credit after December 31, 2000; refund; "eligible taxpayer" defined.

Sec. 267. (1) For tax years that begin after December 31, 2000, an eligible taxpayer may claim a credit against the tax imposed by this act equal to the amount determined under section 268.

(2) If the credit allowed under this section for the tax year exceeds the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall be refunded.

(3) As used in this section, "eligible taxpayer" means a taxpayer that claimed a credit under section 23 of the internal revenue code for the same tax year that the taxpayer is claiming a credit under this section.

History: Add. 2000, Act 394, Imd. Eff. Jan. 8, 2001.

206.268 Tax exemption; qualified adoption expenses; definitions.

Sec. 268. (1) For tax years that begin after December 31, 2000, an eligible taxpayer may claim a credit under section 267 against the tax imposed by this act equal to the taxpayer's qualified adoption expenses in excess of the amount of credit for qualified adoption expenses the taxpayer claimed under section 23 of the internal revenue code or \$1,200.00 per child, whichever is less.

(2) As used in this section:

(a) "Eligible taxpayer" means that term as defined in section 267.

(b) "Qualified adoption expenses" means adoption expenses that are eligible to be used by an eligible taxpayer to claim a credit against the taxpayer's federal tax liability under section 23 of the internal revenue code for the same tax year that the taxpayer is claiming a credit under this section.

History: Add. 2000, Act 393, Imd. Eff. Jan. 8, 2001.

206.269 Tax credit for automobile donated by taxpayer to qualified recipient.

Sec. 269. (1) For tax years that begin after December 31, 2004 and before January 1, 2010, a taxpayer may claim a credit against the tax imposed by this act, subject to the applicable limitations provided by this section, in an amount equal to 50% of the fair market value of an automobile donated by the taxpayer to a qualified organization that intends to provide the automobile to a qualified recipient.

(2) The value of a passenger vehicle shall be determined by the qualified organization or by using the value of the automobile in the appropriate guide published by the national automotive dealers association, whichever is less.

(3) For a taxpayer other than a resident estate or trust, the amount allowable as a credit under this section for a tax year shall not exceed \$50.00, or for a husband and wife filing a joint return as provided in section 311, \$100.00.

(4) If the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that amount that exceeds the tax liability shall not be refunded.

(5) As used in this section, "qualified organization" and "qualified recipient" mean those terms as defined in section 4y of the use tax act, 1937 PA 94, MCL 205.94y.

History: Add. 2004, Act 313, Imd. Eff. Aug. 27, 2004.

Compiler's note: Former MCL 206.269, which pertained to credit against single business tax act, was repealed by Act 484 of 1996, Eff. Jan. 1, 1996.

206.270 Tax credit claimed after December 31, 2008; tax voucher certificate; definitions.

Sec. 270. (1) For tax years that begin after December 31, 2008, a taxpayer to whom a tax voucher certificate is issued or a taxpayer that is the transferee of a tax voucher certificate may use the tax voucher certificate to pay any liability of the taxpayer under section 51 or to pay any amount owed by the taxpayer under section 351.

(2) A tax voucher certificate shall be used for the purposes allowed under subsection (1) and only in a tax year that begins after December 31, 2008.

(3) The amount of the tax voucher that may be used to pay a liability due under this act in any tax year shall not exceed the lesser of the following:

(a) The amount of the tax voucher stated in the tax voucher certificate held by the taxpayer.

(b) The amount authorized to be used in the tax year under the terms of the tax voucher certificate.

(c) The taxpayer's liability under this act for the tax year for which the tax voucher is used.

(4) If the amount of any tax voucher certificate held by a taxpayer or transferee exceeds the amount the taxpayer may use under subsection (3)(b) or (c) in a tax year, that excess may be used by the taxpayer or transferee to pay, subject to the limitations of subsection (3), any future liability of the taxpayer or transferee under this act.

(5) The tax voucher certificate, and any completed transfer form that was issued pursuant to the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263, shall be attached to the annual return under this act. The department may prescribe and implement alternative methods of reporting and recording ownership, transfer, and utilization of tax voucher certificates that are not inconsistent with the provisions of this act. The department shall administer this section to assure that any amount of a tax voucher certificate used to pay any liability under this act shall not also be applied to pay any liability of the taxpayer or any other person under the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601. The department shall take any action necessary to enforce and effectuate the permissible issuance and use of tax voucher certificates in a manner authorized under this section and the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2231 to 125.2263.

(6) As used in this section:

(a) "Certificate" or "tax voucher certificate" means the tax voucher certificate issued under section 23 of the Michigan early stage venture capital investment act of 2003, 2003 PA 296, MCL 125.2253, or any replacement tax voucher certificate issued under former section 37e(9)(b) or (d) of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

(b) "Transferee" means a taxpayer to whom a tax voucher certificate has been transferred under section 23

of the Michigan early stage venture investment act of 2003, 2003 PA 296, MCL 125.2253, and former section 37e of the single business tax act, 1975 PA 228, or section 419 of the Michigan business tax act, 2007 PA 36, MCL 208.1419.

History: Add. 2003, Act 295, Imd. Eff. Jan. 8, 2004;—Am. 2005, Act 234, Imd. Eff. Nov. 21, 2005;—Am. 2007, Act 94, Imd. Eff. Oct. 1, 2007.

Compiler's note: In subdivision (6)(a), the reference to the "Michigan early stage venture capital investment act of 2003" evidently should read "Michigan early stage venture investment act of 2003."

206.271 Recomputation of taxable income by excluding proportional gain or loss on disposition of property.

Sec. 271. (1) A taxpayer subject to the tax levied by section 51 and whose income received after September 30, 1967 is increased or diminished by the disposition of property acquired before October 1, 1967, which is described in and subject to subchapter P of the internal revenue code, may elect to recompute taxable income by excluding therefrom the proportional gain or loss incurred before October 1, 1967. Taxpayers so electing shall be subject to a tax on taxable income thus recomputed at the rates imposed by this act. An election so made shall include all items of gains or losses realized during the taxable year.

(2) The proportion of gain or loss occurring after September 30, 1967, to total gain or loss is equal to the proportion the number of months after September 30, 1967, to date of disposition bears to the number of months from date of acquisition to date of disposition.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.272 Tax credit; amount equal to federal credit; refund.

Sec. 272. (1) For the following tax years that begin after December 31, 2007, a taxpayer may credit against the tax imposed by this act an amount equal to the specified percentages of the credit the taxpayer is allowed to claim as a credit under section 32 of the internal revenue code for a tax year on a return filed under this act for the same tax year:

(a) For tax years that begin after December 31, 2007 and before January 1, 2009, 10%.

(b) For tax years that begin after December 31, 2008, 20%.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the tax year, the state treasurer shall refund the excess to the taxpayer without interest, except as provided in section 30 of 1941 PA 122, MCL 205.30.

History: Add. 2006, Act 372, Imd. Eff. Sept. 22, 2006.

206.273 Repealed. 2000, Act 499, Eff. Dec. 31, 2001.

Compiler's note: The repealed section pertained to credit for prescription drugs.

206.274 Credit claimed for student fees and tuition; rules; limitation; definitions.

Sec. 274. (1) For the 1995 tax year and each tax year after the 1995 tax year and subject to the limitations in this section, a claimant who has adjusted gross income of \$200,000.00 or less and who is a resident of this state may claim a credit against the tax due under this act for fees and tuition paid by the claimant on behalf of the claimant or any other student to a qualified institution of higher learning.

(2) A claimant may claim a credit under this section equal to the following amounts for the following periods:

(a) For the 1995, 1996, and 1997 tax years, 4% of the sum of all fees and tuition paid, not to exceed \$250.00 for each student for each tax year.

(b) For the 1998 tax year and each tax year after the 1998 tax year, 8.0% of the sum of all fees and tuition paid, not to exceed \$375.00 for each student for each tax year.

(3) A credit shall not be claimed under this section for more than 4 tax years for any 1 student.

(4) The credit under this section may be claimed on a separate form exclusive of any other form required by this act.

(5) The department may require reasonable proof from the claimant in support of the fees and tuition payments claimed under this section.

(6) The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

(7) The total amount of credits claimed in a tax year for tuition and fees paid by or on behalf of any 1 student shall not exceed the maximum amount allowable under subsection (2).

(8) As used in this section:

(a) "Fees" means fees required of and uniformly paid by all students and that have been promulgated and published in the catalog of the qualified institution of higher learning.

(b) "Qualified institution of higher learning" means an institution that meets all of the following criteria:

(i) The institution meets the criteria for an institution of higher learning under section 260.

(ii) The institution is located in this state.

(iii) The instructional programs of the institution are not comprised solely of sectarian instruction or religious worship.

(iv) For the 1995 tax year and each tax year after the 1996 tax year, the institution has provided a letter of notification to the state treasurer before July 1 of the tax year that states that the institution will not increase fees and tuition rates during the ensuing academic year by more than the annual average percentage increase in the United States consumer price index in the immediately preceding tax year.

(v) For the 1996 tax year only, the institution has provided a letter of notification to the state treasurer on or before December 31, 1996 that states that the institution will not increase fees and tuition rates during the 1996-1997 academic year by more than 3% above the fees and tuition rates for the 1995-1996 academic year.

(c) "Tuition" means in-state tuition less any refunds of tuition received by the claimant or student paid for any of the following:

(i) Credits for an undergraduate degree program.

(ii) Credits granted by a community college or a 2-year private college toward a degree program or granted for the purpose of transferring those credits toward an undergraduate degree program.

(d) "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics, and as certified by the state treasurer.

History: Add. 1995, Act 7, Imd. Eff. Mar. 8, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 1997, Act 82, Imd. Eff. July 25, 1997.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

206.275 Tax credit; certificate of stillbirth; refund.

Sec. 275. (1) For tax years that begin after December 31, 2005, a taxpayer may claim a credit against the tax imposed by this act equal to 4.5% of the exemption amount for the tax year allowed under section 30(2) for a single exemption rounded up to the nearest \$10.00 increment in the tax year for which the taxpayer has a certificate of stillbirth from the department of community health as provided under section 2834 of the public health code, 1978 PA 368, MCL 333.2834.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

History: Add. 2006, Act 319, Imd. Eff. July 20, 2006.

206.276 Tax credit pursuant to individual or family development account program act; limitation; definitions.

Sec. 276. (1) For tax years that begin after December 31, 2006, a taxpayer who is not an account holder may claim a credit against the tax imposed by this act equal to 75% of the contributions made in the tax year by the taxpayer to the reserve fund of a fiduciary organization pursuant to the individual or family development account program act.

(2) If the amount of the credit allowed under this section exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall not be refunded.

(3) The credit under this section shall not exceed an annual cumulative maximum amount of \$1,000,000.00. The determination of the maximum allowed under this subsection shall be made as provided in the individual or family development account program act.

(4) As used in this section, "account holder", "fiduciary organization", "individual or family development account", and "reserve fund" mean those terms as defined in the individual or family development account program act.

History: Add. 2006, Act 514, Imd. Eff. Dec. 29, 2006.

CHAPTER 6

206.301 Estimated tax; installment payments; due dates; amount; credit; payment of estimated annual tax instead of quarterly payments; filing and payment by farmer, fisherman, or seafarer; information submitted by bank or financial institution;

computations; “taxable trust” defined.

Sec. 301. (1) Every person on a calendar year basis, if the person's annual tax can reasonably be expected to exceed the amount withheld under section 351 and the credits allowed under this act by more than \$500.00, shall pay to the department installments of estimated tax under this act on or before April 15, June 15, and September 15 of the person's tax year and January 15 in the following year. Subject to subsection (3), each installment shall be equal to 1/4 the taxpayer's estimated tax under this act after first deducting the amount estimated to be withheld under section 351.

(2) For a taxpayer on other than a calendar year basis, there shall be substituted for the due dates provided in subsection (1) the appropriate due dates in the taxpayer's fiscal year that correspond to those in the calendar year.

(3) For a taxpayer that pays estimated tax for the taxpayer's first tax year of less than 12 months, the amount paid shall be that fraction of the estimated tax that is obtained by dividing the total amount of estimated tax by the number of payments to be made with respect to the tax year.

(4) There shall be allowed as a credit against the tax imposed by this act the amounts paid to the department pursuant to this section.

(5) Instead of quarterly payments, a person subject to this section may pay an estimated annual tax for the succeeding tax year. The payment shall be made at the same time the person files the annual return for the previous full tax year.

(6) A farmer or fisherman who elects to file and pay his or her federal income tax under an alternative schedule provided in section 6654 of the internal revenue code may file and pay the tax imposed by this act in the same manner. A seafarer may file and pay the tax imposed by this act in the same manner as a farmer or fisherman under this subsection. As used in this subsection, “seafarer” means an individual whose wages may not be withheld for taxes by the state or a political subdivision of the state as provided in section 11108 of title 46 of the United States code, 46 U.S.C. 11108.

(7) A bank or financial institution that submits quarterly estimated income tax payment information through the federal tax deposit system on magnetic tape and acts as fiduciary for 200 or more taxable trusts shall submit Michigan quarterly tax payment information on magnetic tape to the department.

(8) A bank or financial institution that acts as fiduciary for more than 49 and fewer than 200 taxable trusts may enter into an irrevocable agreement with the department to submit estimated income tax payment information on magnetic tape to the department.

(9) The payment of tax based on the information required under subsections (7) and (8) shall be made through a wire transfer to the state of Michigan contractual deposit account.

(10) A payment of estimated tax shall be computed on the basis of the annualized rate established under section 51 for the appropriate tax year to which the estimated tax payment is applicable.

(11) Except as provided in subsection (1), the amount of an estimated tax installment shall be computed, payment of estimated tax shall be credited, and a period of underpayment shall be determined in the same manner as provided in the internal revenue code.

(12) As used in this section, “taxable trust” means a trust required to make payments of estimated tax pursuant to subsection (1).

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1971, Act 25, Imd. Eff. May 13, 1971;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1983, Act 15, Imd. Eff. Mar. 29, 1983;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 70, Imd. Eff. Mar. 28, 1988;—Am. 1996, Act 484, Eff. Jan. 17, 1998.

Compiler's note: Section 2 of Act 15 of 1983 provides: “Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment.”

206.302 Repealed. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

Compiler's note: The repealed section pertained to computation of estimated tax payments.

206.311 Tax return; form; content; verification; transmittal; remittance; extension, computation, and remittance of estimated tax due; interest; penalties; tentative return; payment of estimated tax; joint return; effect of filing copy of federal extension; automatic extension based on service in combat zone.

Sec. 311. (1) The taxpayer on or before the due date set for the filing of a return or the payment of the tax, except as otherwise provided in this act, shall make out a return in the form and content as prescribed by the commissioner, verify the return, and transmit it, together with a remittance of the amount of the tax, to the department.

(2) Except as otherwise provided in subsection (5), the department, upon application of the taxpayer and for good cause shown, may extend under prescribed conditions the time for filing the annual or final return required by this act. Before the original due date, the taxpayer shall remit with an application for extension the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension. The department may require a tentative return and payment of an estimated tax.

(3) Taxpayers who are husband and wife and who file a joint federal income tax return pursuant to the internal revenue code shall file a joint return.

(4) Except as provided in subsection (5), if the taxpayer has been granted an extension or extensions of time within which to file a final federal return for a taxable year, the filing of a copy of the extension or extensions automatically extends the due date of the final return under this act for an equivalent period. The taxpayer shall remit with the copy of the extension or extensions the estimated tax due. In computing the tax due for the tax year, interest at the rate established in, and penalties imposed by, section 23 of 1941 PA 122, MCL 205.23, shall be added to the amount of tax unpaid for the period of the extension.

(5) If the taxpayer is eligible for an automatic extension of time within which to file a federal return based on service in a combat zone, the due date for filing an annual or final return or a return and payment of an estimated tax under this act is automatically extended for an equivalent period of time. The taxpayer is not required to file a copy of any federal extension, but shall print "COMBAT ZONE" in red ink at the top of his or her return when the return is filed. The taxpayer is not required to pay the amount of tax due at the time the return is originally due, and the department shall not impose any interest or penalties for the amount of tax unpaid for the period of the extension.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 94, Imd. Eff. June 2, 1975;—Am. 1980, Act 169, Eff. Sept. 17, 1980;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2004, Act 199, Imd. Eff. July 12, 2004.

206.315 Tax return of person, other than corporation, whose adjusted gross income exceeds personal exemptions; due date; contents; composite income tax return.

Sec. 315. (1) Every person, other than a corporation, required to make a return for any taxable period under the internal revenue code, except as otherwise specifically provided in this act, if his or her adjusted gross income is in excess of the personal exemptions allowed by this act shall render on or before the fifteenth day of the fourth month following the close of that taxable period to the department a return setting forth all of the following:

(a) The amount of adjusted gross income on the return made to the United States internal revenue service for federal income tax purposes and as provided in the definitions contained in this act and the rules issued under this act.

(b) The personal and dependency exemptions as allowed by this act.

(c) The amount of tax due under this act, less credits claimed against the tax.

(d) Other information for the purposes of carrying out this act as may be prescribed by the department.

(e) The balance of the tax shown to be due on the return is due and shall be paid by the date fixed for filing the return unless the balance is less than \$1.00, in which event payment is not required.

(2) A nonresident member who has income in this state from 1 or more flow-through entities may elect to be included in the composite income tax return of a flow-through entity of which the nonresident member is a member.

(3) A flow-through entity may file a composite income tax return on behalf of electing nonresident members and report and pay the tax due based on the electing nonresident members' shares of income available for distribution from the flow-through entity for doing business in, or deriving income from, sources within this state.

(4) A nonresident member that has been included in a composite income tax return and also files an individual income tax return for the same taxable period may claim a credit against the tax imposed by this act on that individual income tax return for the amount of taxes paid on behalf of the nonresident member by the flow-through entity on that composite income tax return.

(5) A composite income tax return is due on or before each April 15 and shall report the information required by the department for the immediately preceding calendar year.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 2003, Act 49, Eff. Oct. 1, 2003.

206.321 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed section pertained to tax returns of corporations and financial institutions.

206.322 Whole dollar amounts, use.

Sec. 322. Any person electing to use "whole dollar amounts" under the provisions of section 6102 of the internal revenue code may use "whole dollar amounts" in the same manner for the purposes of this act.

History: Add. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.325 Furnishing copy of federal tax return and supporting schedules; filing amended return showing final alteration, modification, recomputation, or determination of deficiency; assessment of increased tax resulting from federal audit; payment of additional tax; credit or refund of overpayment.

Sec. 325. (1) A taxpayer required to file a return under this act may be required to furnish a true and correct copy of any tax return or portion of any tax return and supporting schedules that the taxpayer has filed under the provisions of the internal revenue code.

(2) A taxpayer shall file an amended return with the department showing any final alteration in, or modification of, the taxpayer's federal income tax return that affects the taxpayer's taxable income under this act and of any similarly related recomputation of tax or determination of deficiency under the internal revenue code. If an increase in taxable income results from a federal audit that increases the taxpayer's federal income tax by less than \$500.00, the requirement under this subsection to file an amended return does not apply but the department may assess an increase in tax resulting from the audit. The amended return shall be filed within 120 days after the final alteration, modification, recomputation, or determination of deficiency. If the commissioner finds upon all the facts that an additional tax under this act is owing, the taxpayer shall immediately pay the additional tax. If the commissioner finds that the taxpayer has overpaid the tax imposed by this act, a credit or refund of the overpayment shall immediately be made as provided in section 30 of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

206.331 Filing or submitting information as to income paid to others; filing copies or alternate forms of federal tax return.

Sec. 331. (1) At the request of the department, every person required by the internal revenue code to file or submit an information return of income paid to others shall, to the extent the information is applicable to residents of this state, at the same time file or submit the information in form and content as may be prescribed to the department.

(2) Every corporation, voluntary association, joint venture, partnership, estate or trust at the request of the department shall file a copy of any tax return or portion of any tax return which has been filed under the internal revenue code. The department may prescribe alternate forms of returns.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.335-206.341 Repealed. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

Compiler's note: The repealed sections pertained to combined reports, to agreements improperly reflecting income, and to returns and payments based on distribution shares of business income.

CHAPTER 7**206.351 Deducting and withholding tax on compensation; computation of amount; withholding tables; disposition of taxes withheld; employer as trustee; liability; nonresident employees; providing department with copy of certain exemption certificates; exemption certificate; statement; definitions.**

Sec. 351. (1) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (9), the rate prescribed in section 51 to the remainder of the compensation after deducting from compensation the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The commissioner may prescribe withholding tables that may be used by employers to compute the amount of tax required to be withheld.

(2) Every flow-through entity in this state shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the share of taxable income available for distribution of each nonresident member after deducting from that distributive income the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the

distributive income is of 1 year. If a flow-through entity is a nonresident member of a separate flow-through entity in this state, the flow-through entity in this state of which it is a member shall withhold the tax as required by this subsection on behalf of the flow-through entity that is a nonresident member and all nonresident members of that flow-through entity that is a nonresident member.

(3) Every casino licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the winnings of a nonresident reportable by the casino licensee under the internal revenue code.

(4) Every race meeting licensee or track licensee shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to a payoff price on a winning ticket of a nonresident reportable by the race meeting licensee or track licensee under the internal revenue code that is the result of pari-mutuel wagering at a licensed race meeting.

(5) Every casino licensee or race meeting licensee or track licensee shall report winnings of a resident reportable by the casino licensee or race meeting licensee or track licensee under the internal revenue code to the department in the same manner and format as required under the internal revenue code.

(6) The taxes withheld under this section shall accrue to the state on the last day of the month in which the taxes are withheld but shall be returned and paid to the department by the employer, flow-through entity, casino licensee, or race meeting licensee or track licensee within 15 days after the end of any month or as provided in section 355, except prior to July 1, 1993, taxes deposited pursuant to section 19(2) of 1941 PA 122, MCL 205.19, are accrued on the last day of the filing period.

(7) An employer, flow-through entity, casino licensee, or race meeting licensee or track licensee required by this section to deduct and withhold taxes on compensation, a share of income available for distribution on which withholding is required under subsection (2), winning on which withholding is required under subsection (3), or a payoff price on which withholding is required under subsection (4) holds the amount of tax withheld as a trustee for the state, is liable for the payment of the tax to the state, and is not liable to any individual for the amount of the payment.

(8) An employer in this state is not required to deduct and withhold a tax on the compensation paid to a nonresident individual employee, who, under section 256, may claim a tax credit equal to or in excess of the tax estimated to be due for the tax year or is exempted from liability for the tax imposed by this act. In each tax year, the nonresident individual shall furnish to the employer, on a form approved by the department, a verified statement of nonresidence.

(9) An employer, flow-through entity, casino licensee, or race meeting licensee or track licensee required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which the employee, nonresident member, or person subject to withholding under subsection (3) or (4) claims more than 9 personal or dependency exemptions, claims a status that exempts the employee, nonresident member, or person subject to withholding under subsection (3) or (4) from withholding under this section, or elects to pay the tax imposed by this act calculated under section 51a.

(10) An employer shall deduct and withhold the tax imposed by this act calculated under section 51a for a resident who files an exemption certificate under subsection (9) to elect to pay the tax calculated under section 51a.

(11) The exemption certificate required by this section shall include the following statement, "Electing to file using the no-form option may not be for everyone who is eligible. If a taxpayer chooses the no-form option, he or she may not be eligible for some of the credits allowed under this act including the property tax credit allowed under sections 520 and 522, the tuition tax credit allowed under section 274, and the city income tax credit allowed under section 257."

(12) As used in this section:

(a) "Casino" means that term as defined in section 110.

(b) "Casino licensee" means a person licensed to operate a casino under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(c) "Race meeting licensee" and "track licensee" mean a person to whom a race meeting license or track license is issued pursuant to section 8 of the horse racing law of 1995, 1995 PA 279, MCL 431.308.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1974, Act 62, Imd. Eff. Apr. 1, 1974;—Am. 1975, Act 98, Imd. Eff. June 2, 1975;—Am. 1982, Act 169, Imd. Eff. June 1, 1982;—Am. 1983, Act 15, Imd. Eff. Mar. 29, 1983;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—Am. 1996, Act 264, Imd. Eff. June 12, 1996;—Am. 2003, Act 22, Eff. Oct. 1, 2003.

Compiler's note: Section 2 of Act 15 of 1983 provides: "Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment."

206.352 Direct deposit of tax refund.

Sec. 352. (1) For the 1997 tax year and each tax year after the 1997 tax year, a taxpayer who is due a refund determined under section 30 of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws, may request a direct deposit of that refund to a financial institution of the taxpayer's choice that is located in the United States by completing a direct deposit form prescribed by the department and attaching the completed form to the taxpayer's annual return.

(2) The department shall comply with a request under this section unless the request is incomplete or defective in a manner that precludes the department from honoring the request. If the department does not honor the request, the department shall issue a warrant, as provided in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, and at the same time provide the taxpayer with a written explanation including the specific reason for not honoring the taxpayer's request for direct deposit.

History: Add. 1996, Act 568, Eff. Mar. 31, 1997.

206.355 Employer, entity, or licensee subject to administration, collection, and enforcement provisions; filing; definitions.

Sec. 355. (1) All provisions relating to the administration, collection, and enforcement of this act apply to the employer, flow-through entity, casino licensee, or race meeting licensee or track licensee required to withhold taxes and to the taxes required to be withheld. If the department has reasonable grounds to believe that an employer, flow-through entity, casino licensee, or race meeting licensee or track licensee will not pay taxes withheld to the state as prescribed by this act, or to provide a more efficient administration, the department may require the employer, flow-through entity, casino licensee, or race meeting licensee or track licensee to make the return and pay to the department the tax deducted and withheld at other than monthly periods, or from time to time, or require the employer, flow-through entity, casino licensee, or race meeting licensee or track licensee to deposit the tax in a bank approved by the department in a separate account, in trust for the department and payable to the department, and to keep the amount of the taxes in the account until payment over to the department.

(2) Every publicly traded partnership as that term is defined under section 7704 of the internal revenue code that has equity securities registered with the securities and exchange commission under section 12 of title I of the securities and exchange act of 1934, chapter 404, 48 Stat. 881, 15 U.S.C. 78l, shall file on or before each August 31 all unitholder information from the publicly traded partnership's schedule K-1 for the immediately preceding calendar year by paper or electronic format on a form prescribed by the department.

(3) As used in this section:

(a) "Casino" means that term as defined in section 110.

(b) "Casino licensee" means a person licensed to operate a casino under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(c) "Race meeting licensee" and "track licensee" mean a person to whom a race meeting license or track license is issued pursuant to section 8 of the horse racing law of 1995, 1995 PA 279, MCL 431.308.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1974, Act 62, Imd. Eff. Apr. 1, 1974;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—Am. 2003, Act 48, Eff. Oct. 1, 2003.

206.355a Filing form 1099-MISC with department; noncompliance; penalty; filing with city.

Sec. 355a. (1) A person required under the internal revenue code to file a form 1099-MISC for a tax year shall file a copy of that form 1099-MISC with the department on or before January 31 each year or on or before the day required for filing form 1099-MISC under the internal revenue code, whichever is later.

(2) A person who fails to comply with subsection (1) is liable to the department for a penalty of \$50.00 for each form 1099-MISC the taxpayer fails to file.

(3) A person required to file a form 1099-MISC under this section shall also file a copy of the form 1099-MISC with the city reported as the payee's address on the form 1099-MISC if that city imposes a city income tax pursuant to the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

History: Add. 2003, Act 211, Imd. Eff. Nov. 26, 2003.

206.361 Withholding by governmental units and officers.

Sec. 361. If the employer is the United States or this state, or any political subdivision thereof, or any agency or instrumentality of any of the foregoing, the return of the amount deducted and withheld upon compensation may be made by any officer of the employer having control of the payment of the compensation or an officer appropriately designated for that purpose.

206.365 Furnishing statement of compensation paid and taxes withheld; filing statement and annual reconciliation return; return or report; furnishing withholding information to employer, entity, or licensee; definitions.

Sec. 365. (1) Every employer, flow-through entity, casino licensee, and race meeting licensee and track licensee required by this act to deduct and withhold taxes for a tax year on compensation, share of income available for distribution, winnings, or payoff on a winning ticket shall furnish to each employee, nonresident member, or person with winnings or a payoff on a winning ticket subject to withholding under this act on or before January 31 of the succeeding year a statement in duplicate of the total compensation, share of income available for distribution, winnings, or payoff on a winning ticket paid during the tax year and the amount deducted or withheld. However, if employment is terminated before the close of a calendar year by an employer who goes out of business or permanently ceases to be an employer in this state, or a flow-through entity, casino licensee, race meeting licensee, or track licensee goes out of business or permanently ceases to be a flow-through entity, casino licensee, race meeting licensee, or track licensee before the close of a calendar year, then the statement required by this subsection shall be issued within 30 days after the last compensation, share of income available for distribution, winnings, or payoff of a winning ticket is paid. A duplicate of a statement made pursuant to this section and an annual reconciliation return, MI-W3, shall be filed with the department by February 28 of the succeeding year except that an employer, flow-through entity, casino licensee, and race meeting licensee and track licensee who goes out of business or permanently ceases to be an employer, flow-through entity, casino licensee, and race meeting licensee and track licensee shall file the statement and the annual reconciliation return within 30 days after going out of business or permanently ceasing to be an employer, flow-through entity, casino licensee, and race meeting licensee and track licensee.

(2) Every employer, flow-through entity, casino licensee, and race meeting licensee and track licensee required by this act to deduct or withhold taxes from compensation, share of income available for distribution, winnings, or payoff on a winning ticket shall make a return or report in form and content and at times as prescribed by the department.

(3) Every employee, nonresident member, or person with winnings or a payoff on a winning ticket subject to withholding under this act shall furnish to his or her employer, flow-through entity, casino licensee, and race meeting licensee and track licensee information required for the employer, flow-through entity, casino licensee, and race meeting licensee and track licensee to make an accurate withholding. An employee, nonresident member, or person with winnings or a payoff on a winning ticket subject to withholding under this act shall file with his or her employer, flow-through entity, casino licensee, and race meeting licensee and track licensee revised information within 10 days after a decrease in the number of exemptions or a change in status from a nonresident to a resident. An employee shall file revised information with his or her employer within 10 days after the employee completes the residency requirements under section 31(11)(d), and when a change of status occurs from resident of a renaissance zone to nonresident of a renaissance zone. Within 10 days after an employer receives revised information from an employee who completes the residency requirements under section 31(11)(d), the employer shall forward a copy of that revised information to the department. The employee, nonresident member, or person with winnings or a payoff on a winning ticket subject to withholding under this act may file revised information when the number of exemptions increases or when a change in status occurs from that of a resident of this state to a nonresident of this state. Revised information shall not be given retroactive effect for withholding purposes. An employer, flow-through entity, casino licensee, and race meeting licensee and track licensee shall rely on this information for withholding purposes unless directed by the department to withhold on some other basis. If an employee, nonresident member, or person with winnings or a payoff on a winning ticket subject to withholding under this act fails or refuses to furnish information, the employer, flow-through entity, casino licensee, and race meeting licensee and track licensee shall withhold the full rate of tax from the employee's total compensation, the nonresident member's share of income available for distribution, or the winnings of a person with winnings or a payoff on a winning ticket subject to withholding under this act. As used in this subsection, "renaissance zone" means a renaissance zone designated pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(4) As used in this section:

(a) "Casino" means that term as defined in section 110.

(b) "Casino licensee" means a person licensed to operate a casino under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(c) "Race meeting licensee" and "track licensee" mean a person to whom a race meeting license or track license is issued pursuant to section 8 of the horse racing law of 1995, 1995 PA 279, MCL 431.308.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1975, Act 298, Eff. Mar. 31, 1976;—Am. 1996, Act 448, Imd. Eff. Dec. 19, 1996;—Am. 2003, Act 47, Eff. Oct. 1, 2003.

CHAPTER 8

206.401 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to determination of tax, crediting or refunding excess payment, and penalty for deficiency.

206.402 Administration of tax; conflicting provisions.

Sec. 402. The tax imposed by this act shall be administered by the department in accordance with Act No. 122 of the Public Acts of 1941, as amended, and this act. In case of conflict between the provisions of Act No. 122 of the Public Acts of 1941, as amended, and this act, the provisions of this act shall prevail.

History: Add. 1980, Act 169, Eff. Sept. 17, 1980.

206.405 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to failure or refusal to file return, report, or statement.

206.408 Records.

Sec. 408. A person liable for any tax imposed under this act shall keep and maintain accurate records in a form as to make it possible to determine the tax due under this act.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1969, Act 332, Imd. Eff. Nov. 4, 1969;—Am. 1980, Act 169, Eff. Sept. 17, 1980.

206.411 Repealed. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: The repealed section pertained to statute of limitations.

206.421-206.431 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed sections pertained to notice of intent to levy tax, hearing, appeal, notices, collection of tax, jeopardy assessment, actions at law, and liens.

206.435 Contribution designations; duration; insufficient refund to make contribution; appropriation.

Sec. 435. (1) Except as otherwise provided under this section, for the 2008 tax year and each tax year after the 2008 tax year, an individual may designate in a manner and form as prescribed by the department pursuant to subsection (2) on his or her annual return that contributions of \$5.00, \$10.00, or more of his or her refund be credited to any of the following:

(a) For the 2010 tax year and each tax year after the 2010 tax year, the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions designated to this subdivision shall be used for the purpose of administering this section.

(b) For the 2010 tax year and each tax year after the 2010 tax year, the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172.

(c) The prostate cancer research fund created in the prostate cancer research fund act.

(d) Amanda's fund for breast cancer prevention and treatment created in the Amanda's fund for breast cancer prevention and treatment act.

(e) The animal welfare fund created in the animal welfare fund act.

(f) The Michigan housing and community development fund created in section 3 of the Michigan housing and community development fund act, 2004 PA 479, MCL 125.2823.

(2) The department shall establish and utilize a separate contributions schedule that incorporates each contribution designation authorized under this section that remains in effect and available for each tax year and shall revise the state individual income tax return form to include a separate line for the total contribution designations made under the separate contributions schedule. The contribution designations authorized under sections 437 and 440 shall remain on the first page of the state individual income tax return for the 2008 and 2009 tax years, but shall be incorporated into the contributions schedule for the 2010 tax year and shall remain on the schedule until the contribution designation expires by law or is otherwise no longer available as determined by the department pursuant to subsection (3). A contribution designation that is enacted after the effective date of the amendatory act that added this section shall be incorporated as soon as practical on the contributions schedule, and each new contribution designation shall be listed on the schedule in alphabetical order.

(3) The department may cease to include a contribution designation on the contributions schedule if that contribution designation fails to raise \$100,000.00 in any tax year for 2 consecutive tax years.

(4) If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(5) Notwithstanding any other allocations or disbursements required by this act, each year that a contribution designation under this section is in effect, an amount equal to the cumulative designation made under this section, less the amount appropriated to the department to implement this section, shall be appropriated from the general fund and distributed to the department responsible for administering the appropriate fund to which the taxpayer designated his or her contribution and shall be used solely for the purposes of that fund.

(6) Money appropriated pursuant to an appropriations act as required by law in accordance with this section to the department responsible for administering each respective fund shall be in addition to any other allocation or appropriation and is intended to enhance appropriations from the general fund and not to replace or supplant those appropriations.

History: Add. 2007, Act 133, Imd. Eff. Nov. 1, 2007.

206.437 Children of veterans tuition grant program; contribution designation.

Sec. 437. (1) For the 2006 tax year and each tax year after the 2006 tax year, an individual may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund be credited to the Michigan higher education assistance authority created in section 1 of 1960 PA 77, MCL 390.951, for the children of veterans tuition grant program created in the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. Notwithstanding any other provision in this section or section 475, for the 2010 tax year and each tax year after the 2010 tax year, the contribution designation authorized under this section shall be offered and administered in accordance with section 435. If an individual's refund is not sufficient to make a contribution under this section, the individual may designate a contribution amount and that contribution amount shall be added to the individual's tax liability for the tax year.

(2) The tax designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return forms, if practical. Effective January 1, 2010, the contribution designation authorized in this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

(3) Notwithstanding any other allocations or disbursements required by this act, each year that the contribution designation under this section is in effect, an amount equal to the cumulative contributions made under this section shall be appropriated from the general fund to the children of veterans tuition grant program of the Michigan higher education assistance authority, and the funds shall be distributed for programs allowed under the children of veterans tuition grant act, 2005 PA 248, MCL 390.1341 to 390.1346. No money from the contributions made pursuant to this section shall be used for the purpose of administering this section.

History: Add. 2005, Act 249, Imd. Eff. Dec. 1, 2005;—Am. 2007, Act 133, Imd. Eff. Nov. 1, 2007.

206.438 Designation of contribution to the military family relief fund.

Sec. 438. (1) For tax years that begin after December 31, 2003 and before January 1, 2008, a taxpayer may designate on his or her annual return that a contribution of \$1.00 or more of his or her refund be credited to the military family relief fund.

(2) If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate that the amount designated be added to the taxpayer's tax liability for the tax year.

(3) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of all state individual income tax return forms, if practicable.

(4) Notwithstanding the other allocations and disbursements required by this act, an amount equal to the cumulative designations made under this section, less the amount appropriated to the department of treasury for the purpose of implementing this section, shall be distributed each fiscal year to the department of military and veterans affairs to be used as follows:

(a) Twenty percent to the post fund and posthumous fund of the Michigan soldiers' home to be used as provided in 1905 PA 313, MCL 36.61.

(b) Eighty percent to the military family relief fund created in the military family relief fund act.

(5) Money appropriated pursuant to this section to the department of military and veterans affairs shall be in addition to any allocations and appropriations and is intended to enhance appropriations from the general

fund and not to replace or supplant those appropriations.

History: Add. 2004, Act 364, Imd. Eff. Oct. 6, 2004.

206.439 Designating portion of tax refund credited to Michigan nongame fish and wildlife trust fund; printing contribution designation on income tax return form; disposition of amount equal to cumulative designations.

Sec. 439. (1) Until the state treasurer certifies that the assets in the nongame fish and wildlife trust fund created in the nongame fish and wildlife trust fund act exceed \$6,000,000.00, a taxpayer may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund be credited to the state of Michigan nongame fish and wildlife trust fund created in part 439 (nongame fish and wildlife trust fund) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.43901 to 324.43907 of the Michigan Compiled Laws. If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate a contribution amount and that contribution amount shall be added to the taxpayer's tax liability for the tax year.

(2) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of all state individual income tax return forms, if practicable.

(3) Notwithstanding the other allocations and disbursements required by this act, an amount equal to the cumulative designations made under this section, less the amount appropriated to the department of treasury for the purpose of implementing this section, shall be deposited in the state of Michigan nongame fish and wildlife trust fund and shall be appropriated solely for the purposes of the fund.

History: Add. 1983, Act 189, Imd. Eff. Nov. 1, 1983;—Am. 1985, Act 145, Imd. Eff. Nov. 7, 1985;—Am. 1986, Act 286, Eff. Jan. 22, 1987;—Am. 1993, Act 162, Imd. Eff. Sept. 16, 1993;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.440 Children's trust fund; contribution designation.

Sec. 440. (1) Effective for the tax year beginning January 1, 1982 and before January 1, 2005, an individual may designate on his or her annual return that a contribution of \$2.00 or more of his or her refund and for tax years beginning on and after January 1, 2005, an individual may designate on his or her annual return that a contribution of \$5.00 or more of his or her refund be credited to the children's trust fund created in 1982 PA 249, MCL 21.171 to 21.172. Notwithstanding any other provision in this section, for the tax years beginning on and after January 1, 2010, the contribution designation authorized under this section shall be offered and administered in accordance with section 435. If a taxpayer's refund is not sufficient to make a contribution under this section, the taxpayer may designate a contribution amount and that contribution amount shall be added to the taxpayer's tax liability for the tax year.

(2) The contribution designation authorized in this section shall be clearly and unambiguously printed on the first page of the state individual income tax return. Effective January 1, 2010, the contribution designation authorized under this section is no longer required to be printed on the first page of the state individual income tax return but shall be incorporated into the contributions schedule created by the department pursuant to section 435 and shall remain on the schedule until the contribution designation expires or is otherwise no longer available.

History: Add. 1982, Act 211, Eff. Sept. 29, 1982;—Am. 1985, Act 156, Imd. Eff. Nov. 15, 1985;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2005, Act 160, Imd. Eff. Oct. 3, 2005;—Am. 2007, Act 133, Imd. Eff. Nov. 1, 2007.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.441 Repealed. 1990, Act 285, Eff. Dec. 21, 1990;—1990, Act 344, Imd. Eff. Dec. 21, 1990.

Compiler's note: The repealed section pertained to credit or refund of taxes or penalties.

206.442 Repealed. 1974, Act 308, Eff. Apr. 1, 1975.

Compiler's note: The repealed section pertained to failure or refusal to make refund.

206.451 Certificate of dissolution or withdrawal until taxes paid; payment of taxes as condition to closing of estate.

Sec. 451. (1) A domestic corporation, a foreign corporation, or other business entity authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this

state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation or other business entity that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(2) An estate of a person subject to tax under this act shall not be closed without the payment of the tax levied by this act, both in respect to the liability of the estate and decedent prior to his or her death.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 2002, Act 581, Imd. Eff. Oct. 14, 2002;—Am. 2003, Act 46, Eff. Oct. 1, 2003.

206.455 Records; adequacy, period, examination, penalties for failure to keep.

Sec. 455. Every person shall keep such records, books and accounts as may be necessary to determine the amount of tax for which it is liable under the provisions of this act and as the department may require for a period of 6 years. The records, books and accounts shall be open for examination at any time during regular business hours of the taxpayer by the department and its agents. Any person who violates any provision of this section is guilty of a misdemeanor and shall be fined not more than \$1,000.00 or imprisoned not more than 1 year in the county jail, or both.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.461-206.466 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed sections pertained to offenses, penalties, enforcement, and confidentiality.

206.471 Administration of tax by department; forms; rules; printing summary of state expenditures and revenues in instruction booklet; space on tax return for school district; information to be provided in instruction booklet about purchase of annual state park motor vehicle permit; listing of credit and deduction; posting of list on website.

Sec. 471. (1) The tax imposed by this act shall be administered by the department. The department shall prescribe forms for use by taxpayers and may promulgate rules for all of the following:

- (a) The maintenance by taxpayers of records, books, and accounts.
- (b) The computation of the tax.
- (c) The manner and time of changing or electing accounting methods and of exercising the accounting method options contained in this act.
- (d) The making of returns, the payment of tax due, and the ascertainment, assessment, and collection of the tax.

(2) The rules shall follow the rulings of the United States internal revenue service with respect to the federal income tax if those rulings are not inconsistent with this act, and the department may adopt as a part of the rules any portions of the internal revenue code or rulings, in whole or in part.

(3) A summary of state expenditures and revenues by major category, in dollar amounts and percentage of total, for the most recent state fiscal year that the information is available, shall be printed in the instruction booklet accompanying each state income tax return.

(4) Each state income tax return shall contain a space for the taxpayer to indicate the school district in which the taxpayer resides.

(5) The department may provide information in the instruction booklet about the purchase of an annual state park motor vehicle permit pursuant to part 741 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.74101 to 324.74125.

(6) In the instruction booklet that accompanies the annual return required under this act, the department shall provide a clear and concise listing of each credit and each deduction allowed under this act and a reference to a detailed explanation.

(7) The department shall post the list described in subsection (6) on the department's official website.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1977, Act 163, Eff. Mar. 30, 1978;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—Am. 1994, Act 119, Eff. Mar. 30, 1995;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2002, Act 486, Imd. Eff. June 27, 2002.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

Administrative rules: R 206.1 et seq. of the Michigan Administrative Code.

206.472 Personal income and property tax credit forms and instructions; submission of drafts with explanations of changes.

Sec. 472. Before final printing the department shall submit the draft of the proposed personal income tax forms and instructions and the proposed property tax credit forms and instructions together with explanations of any and all changes from the prior forms and instructions to the house taxation and senate finance committees.

History: Add. 1977, Act 1, Imd. Eff. Feb. 23, 1977.

206.473 Direct deposit of tax refund; form.

Sec. 473. The department shall develop and make available a direct deposit form prescribed by the department to provide for the direct deposit of a refund due to a taxpayer.

History: Add. 1996, Act 568, Eff. Mar. 31, 1997.

206.475 Tax imposed additional to other taxes; disposition of proceeds; allocation and distribution; contribution designation program; appropriation; children's trust fund.

Sec. 475. (1) The tax imposed by this act is in addition to all other taxes for which the taxpayer is liable and the proceeds derived from the tax shall be credited to the general fund to be allocated and distributed as provided in this act.

(2) Each year that the contribution designation program established in section 440 is in effect, an amount equal to the cumulative designations made under section 440 less the annual amount appropriated to the department of treasury for the purpose of administering the children's trust fund and implementing section 440, shall be appropriated from the general fund to the children's trust fund in the department of treasury for use solely in support of the purposes provided in the act that created the children's trust fund.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1982, Act 211, Eff. Sept. 29, 1982;—Am. 1991, Act 82, Imd. Eff. July 18, 1991;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: Section 475 of Act 250 of 1978, purporting to amend this section, was submitted to and disapproved by the people as part of Proposal E at the general election held on November 4, 1980.

Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.481 Repealed. 1996, Act 342, Eff. Oct. 1, 1996.

Compiler's note: The repealed section pertained to remittances by state disbursing authority to cities, villages, townships, and counties.

206.482 Amounts distributed to local governments, lists for legislators.

Sec. 482. The state disbursing authority on the determination of the amounts to be distributed under the provisions of section 481, shall furnish a list to each member of the house of representatives and the senate showing the amount to be distributed to each county.

History: Add. 1969, Act 332, Imd. Eff. Nov. 4, 1969.

206.483 Repealed. 2002, Act 225, Imd. Eff. Apr. 29, 2002.

Compiler's note: The repealed section pertained to deposit in federal facility development fund.

206.491-206.495 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed sections pertained to computation of taxes and exclusion of business activities tax and income.

206.496 Appropriation.

Sec. 496. There is appropriated to the department for the 1982-1983 state fiscal year from the revenue derived from this act the sum of \$100,000.00 for the purpose of administering and enforcing the requirements of the amendatory act which added this section.

History: Add. 1983, Act 15, Imd. Eff. Mar. 29, 1983.

Compiler's note: Section 2 of Act 15 of 1983 provides: “Because a severe economic recession has caused an actual deficit in state funds, the legislature finds that this amendatory act is necessary to, and it is the purpose of this amendatory act to, meet the actual deficiencies existing in state funds at the time of this enactment.”

Former MCL 206.496, also providing for the appropriation of funds, was repealed by Act 169 of 1980.

206.497 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to business activities tax repeal.

206.498 Declaration of necessity.

Sec. 498. This act is expressly declared to be necessary to meet established deficiencies, present and future, in state funds.

History: 1967, Act 281, Eff. Oct. 1, 1967.

206.499 Effective date; exceptions.

Sec. 499. This act shall take effect on October 1, 1967, except sections 61 and 71 which shall take effect on January 1, 1968.

History: 1967, Act 281, Eff. Oct. 1, 1967;—Am. 1980, Act 169, Eff. Sept. 17, 1980.

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206.501 Applicability of definitions.

Sec. 501. The definitions contained in sections 504 to 516 shall control only in the interpretation of this chapter, unless the context clearly requires otherwise.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973.

206.504 "Blind" and "claimant" defined.

Sec. 504. (1) "Blind" means a person with a permanent impairment of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of not greater than 20 degrees in the better eye.

(2) "Claimant" means an individual natural person who filed a claim under this chapter and who was domiciled in this state during at least 6 months of the calendar year immediately preceding the year in which the claim is filed under this chapter and includes a husband and wife if they are required to file a joint state income tax return. The 6-month residency requirement does not apply to a claimant who files for the home heating credit under section 527a.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1978, Act 458, Imd. Eff. Oct. 16, 1978;—Am. 1979, Act 126, Imd. Eff. Oct. 23, 1979;—Am. 1993, Act 328, Eff. Apr. 1, 1994.

206.506 "Eligible serviceperson," "eligible veteran," and "eligible widow or widower" defined.

Sec. 506. "Eligible serviceperson", "eligible veteran", and "eligible widow or widower" means a serviceperson, veteran, or widow or widower, whose income as defined in this chapter is not more than \$7,500.00 per year unless the serviceperson, veteran, or widow or widower receives compensation paid by the veterans administration or the armed forces of the United States for service incurred disabilities and who meets the requirements of the following schedule:

War Person Service in Disability % Taxable
War Value
Allowance
Indian Veteran or 3 months, or No \$3,500.00
Civil veteran's widow 1 day with requirement
Spanish- or widower discharge
American for service-
Mexican connected
disability
World War I Widow or widower 3 months, or No \$2,500.00
World War II of nondisabled 1 day with requirement
Korean or nonpensioned discharge
veteran for service-
connected
disability
All wars or Pensioned veteran Any No \$3,500.00
presidential or veteran's requirement
executive widow or widower
order or
presidential
proclamation

All wars or Veteran with Any 10-50 \$3,500.00
 presidential service-connected
 executive disability or
 order or veteran's widow
 presidential or widower
 proclamation
 All wars or Veteran with Any 60-70-80 \$4,000.00
 presidential service-connected
 executive disability or
 order or veteran's widow
 presidential or widower
 proclamation
 All wars or Veteran with Any 90-100 \$4,500.00
 presidential service-connected
 executive disability or
 order or veteran's widow
 presidential or widower
 proclamation
 All wars or Widow or widower Any No \$4,500.00
 presidential of veteran dying requirement
 executive in service
 order or
 presidential
 proclamation
 Current Serviceperson or Any No \$3,500.00
 service serviceperson's requirement
 widow or widower

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1996, Act 484, Eff. Jan. 1, 1996.

Compiler's note: Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.507 “Federally aided housing” and “state aided housing” defined.

Sec. 507. (1) “Federally aided housing” means housing developed under a program administered by the secretary of the United States department of housing and urban development providing below market interest rate mortgages, interest reduction payments, rent supplements, annual contributions of housing assistance payments, or housing allowances or housing receiving special benefits under federal law designated specifically to develop low and moderate income housing.

(2) “State aided housing” is housing financed by a loan secured by a mortgage or security interest made by the Michigan state housing development authority for the construction, rehabilitation, or long-term financing of housing for low or moderate income persons.

History: Add. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.508 “Gross rent,” “homestead,” “household,” and “household income” defined.

Sec. 508. (1) “Gross rent” means the total rent contracted to be paid by the renter or lessee of a homestead pursuant to dealing at arms' length with the landlord of the homestead. When the landlord and tenant have not dealt with each other at arms' length and the department believes that the gross rent charged is excessive, the department may adjust the gross rent to a reasonable amount for the purposes of this chapter.

(2) “Homestead” means a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes, or a service charge in lieu of taxes as provided by section 15a of Act No. 346 of the Public Acts of 1966, as amended, being section 125.1415a of the Michigan Compiled Laws, owned and occupied as a home by the owner of the dwelling or unit, or occupied as the dwelling of the renter or lessee, including all unoccupied real property not classified for ad valorem tax purposes as commercial, industrial, residential, or timber-cut over, owned by the owner of the homestead. Beginning in the 1990 tax year, a homestead does not include unoccupied real property that is leased or rented by the owner to another person and that is not adjacent and contiguous to the home of the owner. Additionally, the following apply:

(a) If a homestead is an integral part of a larger unit of assessment such as commercial, industrial, residential, timber-cut over, or a multipurpose or multidwelling building, the tax on the homestead shall be the same proportion of the total property tax as the proportion of the value of the homestead is to the total value of the assessed property.

(b) If the gross receipts of the agricultural or horticultural operations do not exceed the household income, or if there are no gross receipts, the following apply:

(i) If the claimant has lived on the land 10 years or more, all of the adjacent and contiguous agricultural or horticultural lands shall be considered a homestead and the credit is allowed for all the land.

(ii) If the claimant has lived on the land less than 10 years, not more than 5 acres of adjacent and contiguous agricultural or horticultural land shall be considered a part of the homestead and the credit is allowed for that part of the land.

(c) A mobile home or trailer coach in a trailer coach park is a homestead and the site rent for space is considered the rent of a homestead. The specific tax levied by section 41 of Act No. 243 of the Public Acts of 1959, being section 125.1041 of the Michigan Compiled Laws, is considered a property tax.

(3) "Household" means a claimant and spouse.

(4) "Household income" means all income received by all persons of a household in a tax year while members of a household.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990.

206.510 "Income" and "owner" defined.

Sec. 510. (1) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code plus all income specifically excluded or exempt from the computations of the federal adjusted gross income except that beginning with the 1988 tax year, a deduction for a carryback or carryover of a net operating loss shall not exceed federal modified taxable income as defined in section 172(b)(2) of the internal revenue code. Also, a person who is enrolled in an accident or health insurance plan may deduct from income the amount that person paid in premiums in the tax year for that insurance plan for the person's family. Income does not include any of the following:

(a) The first \$300.00 of gifts in cash or kind from nongovernmental sources.

(b) The first \$300.00 received from awards, prizes, lottery, bingo, or other gambling winnings.

(c) Surplus foods.

(d) Relief in kind supplied by a governmental agency.

(e) Payments or credits under this act.

(f) A governmental grant that has to be used by the claimant for rehabilitation of the claimant's homestead.

(g) Stipends received by a person 60 years of age or older who is acting as a foster grandparent under the foster grandparent program authorized pursuant to section 211 of part B of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 U.S.C. 5011, or who is acting as a senior companion pursuant to section 213 of part C of title II of the domestic volunteer service act of 1973, Public Law 93-113, 42 U.S.C. 5013.

(h) Amounts deducted from monthly social security or railroad retirement benefits for medicare premiums.

(i) Contributions by an employer to life, accident, or health insurance plans.

(j) Energy assistance grants and energy assistance tax credits.

(2) "Owner" means a natural person who owns or is purchasing a homestead under a mortgage or land contract, who owns or is purchasing a dwelling situated on the leased lands of another, or who is a tenant-stockholder of a cooperative housing corporation.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1977, Act 1, Imd. Eff. Feb 23, 1977;—Am. 1978, Act 43, Imd. Eff. Mar. 7, 1978;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 261, Imd. Eff. July 15, 1988;—Am. 1995, Act 244, Imd. Eff. Dec. 27, 1995;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995.

Compiler's note: Section 2 of Act 43 of 1978 provides: "This amendatory act shall take effect for all tax years beginning January 1, 1977, and thereafter."

Section 2 of Act 261 of 1988 provides: "This amendatory act is effective for a tax year that begins after December 31, 1986."

206.512 Definitions; P to R.

Sec. 512. (1) "Paraplegic, hemiplegic, or quadriplegic" means an individual, or either 1 of 2 persons filing a joint tax return under this act, who is a paraplegic, hemiplegic, or quadriplegic at the end of the tax year.

(2) "Property taxes" means, for tax years before the 2003 tax year, general ad valorem taxes due and payable on a homestead within this state including property tax administration fees, but does not include penalties, interest, or special assessments unless assessed in the entire city, village, or township,

levied using a uniform millage rate on all real property not exempt by state law from the levy of the special assessment, and levied and based on state equalized valuation or taxable value.

(3) “Qualified person” means a claimant and any person, domiciled in Michigan, who can be claimed as a dependent under the internal revenue code and who does not file a claim under this act for the same tax year. The term does not include the additional exemptions allowed for age or blindness.

(4) “Renter” means a person who rents or leases a homestead.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 125, Imd. Eff. May 25, 1974;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2003, Act 29, Imd. Eff. June 26, 2003.

Compiler's note: Act 253 of 1980, purporting to amend §§ 206.30, 206.512, 206.520, and 206.522 and to add a § 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to and disapproved by the people at the general election held on November 4, 1980.

Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.512a “Property taxes” defined.

Sec. 512a. “Property taxes” means, for the 2003 tax year and tax years after the 2003 tax year, general ad valorem taxes due and payable, levied on a homestead within this state including property tax administration fees, but does not include penalties, interest, or special assessments unless the special assessment is levied using a uniform millage rate on all real property not exempt by state law from the levy of the special assessment and complies with 1 of the following:

(a) The special assessment is levied in the entire city, village, or township and is levied and based on state equalized valuation or taxable value.

(b) The special assessment is for police, fire, or advanced life support, is levied in the entire township excluding all or a portion of a village within the township, and is levied and based on state equalized valuation or taxable value.

History: Add. 2003, Act 28, Imd. Eff. June 26, 2003.

206.514 “Senior citizen,” “serviceperson,” and “state income tax” defined.

Sec. 514. (1) “Senior citizen” means an individual, or either 1 of 2 persons filing a joint tax return under this act, who is 65 years of age or older at the close of the tax year. The term also includes the unremarried surviving spouse of a person who was 65 years of age or older at the time of death.

(2) “Serviceperson” means a person who is currently serving in the armed forces of the United States or is separated from the armed forces for less than a year, and who was a resident of this state at least 6 months prior to the time of entering the armed forces or was a resident of this state at least 5 years prior to filing a claim under this chapter.

(3) “State income tax” or “state income tax act” means the tax levied by this act.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 156, Imd. Eff. June 20, 1974;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

206.516 “Veteran” and “widow or widower” defined.

Sec. 516. (1) “Veteran” means a person of either sex who meets all of the following qualifications:

(a) Was a resident of this state at least 6 months prior to the time of entering the armed forces of the United States or was a resident of this state for at least 5 years prior to filing a claim under this chapter.

(b) Served in the armed forces during a period of war or conflict prescribed by or pursuant to Act No. 190 of the Public Acts of 1965, as amended, being sections 35.61 and 35.62 of the Michigan Compiled Laws.

(c) Was discharged from service in the armed forces, under honorable conditions or died while in service not as a result of his or her own misconduct.

(2) “Widow or widower” means the unmarried surviving spouse of a veteran or serviceperson who receives a widow's or widower's pension from the United States veterans' administration. Widow or widower includes the unremarried surviving spouse of the person who previously qualified as a claimant.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

206.520 Credit for property taxes on homestead; credit for person renting or leasing homestead; credit in excess of tax liability due; assignment of claim to mortgagor by senior citizen for rent reduction; eligibility to claim credit on property rented or leased as credit for person receiving aid to families with dependent children, state family assistance, or state disability assistance payments; reduction of credit for claimant whose household

income exceeds certain amount; adjustment; credit claimable by senior citizen; limitations; rules; form; determining qualification to claim credit after move; reduction of claim for return of less than 12 months; report by state housing development authority; total credit allowed by section and § 206.522.

Sec. 520. (1) Subject to the limitations and the definitions in this chapter, a claimant may claim against the tax due under this act for the tax year a credit for the property taxes on the taxpayer's homestead deductible for federal income tax purposes pursuant to section 164 of the internal revenue code, or that would have been deductible if the claimant had not elected the zero bracket amount or if the claimant had been subject to the federal income tax. The property taxes used for the credit computation shall not be greater than the amount levied for 1 tax year.

(2) A person who rents or leases a homestead may claim a similar credit computed under this section and section 522 based upon 17% of the gross rent paid for tax years before the 1994 tax year, or 20% of the gross rent paid for tax years after the 1993 tax year. A person who rents or leases a homestead subject to a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, Act No. 346 of the Public Acts of 1966, being section 125.1415a of the Michigan Compiled Laws, may claim a similar credit computed under this section and section 522 based upon 10% of the gross rent paid.

(3) If the credit claimed under this section and section 522 exceeds the tax liability for the tax year or if there is no tax liability for the tax year, the amount of the claim not used as an offset against the tax liability shall, after examination and review, be approved for payment, without interest, to the claimant. In determining the amount of the payment under this subsection, withholdings and other credits shall be used first to offset any tax liabilities.

(4) If the homestead is an integral part of a multipurpose or multidwelling building that is federally aided housing or state aided housing, a claimant who is a senior citizen entitled to a payment under subsection (2) may assign the right to that payment to a mortgagor if the mortgagor reduces the rent charged and collected on the claimant's homestead in an amount equal to the tax credit payment provided in this chapter. The assignment of the claim is valid only if the Michigan state housing development authority, by affidavit, verifies that the claimant's rent has been so reduced.

(5) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead.

(6) A person who discriminates in the charging or collection of rent on a homestead by increasing the rent charged or collected because the renter or lessee claims and receives a credit or payment under this chapter is guilty of a misdemeanor. Discrimination against a renter who claims and receives the credit under this section and section 522 by a reduction of the rent on the homestead of a person who does not claim and receive the credit is a misdemeanor. If discriminatory rents are charged or collected, each charge or collection of the higher or lower payment is a separate offense. Each acceptance of a payment of rent is a separate offense.

(7) A person who received aid to families with dependent children, state family assistance, or state disability assistance pursuant to the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.119b of the Michigan Compiled Laws, in the tax year for which the person is filing a return shall have a credit that is authorized and computed under this section and section 522 reduced by an amount equal to the product of the claimant's credit multiplied by the quotient of the sum of the claimant's aid to families with dependent children, state family assistance, and state disability assistance for the tax year divided by the claimant's household income. The reduction of credit shall not exceed the sum of the aid to families with dependent children, state family assistance, and state disability assistance for the tax year. For the purposes of this subsection, aid to families with dependent children does not include child support payments that offset or reduce payments made to the claimant.

(8) A credit under subsection (1) or (2) shall be reduced by 10% for each claimant whose household income exceeds \$73,650.00 and by an additional 10% for each increment of \$1,000.00 of household income in excess of \$73,650.00.

(9) If the credit authorized and calculated under this section and section 522 and adjusted under subsection (7) or (8) does not provide to a senior citizen who rents or leases a homestead that amount attributable to rent that constitutes more than 40% of the household income of the senior citizen, the senior citizen may claim a credit based upon the amount of household income attributable to rent as provided by this section.

(10) A senior citizen whose gross rent paid for the tax year is more than the percentage of household income specified in subsection (9) for the respective tax year may claim a credit for the amount of rent paid that constitutes more than the percentage of the household income of the senior citizen specified in subsection (9) and that was not provided to the senior citizen by the credit computed pursuant to this section and section 522 and adjusted pursuant to subsection (7) or (8).

(11) The department may promulgate rules to implement subsections (9) to (16) and may prescribe a table to allow a claimant to determine the credit provided under this section and section 522 in the instruction booklet that accompanies the respective income tax or property tax credit forms used by claimants.

(12) A senior citizen may claim the credit under subsections (9) to (16) on the same form as the property tax credit permitted by subsection (2). The department shall adjust the forms accordingly.

(13) A senior citizen who moves to a different rented or leased homestead shall determine, for 2 tax years after the move, both his or her qualification to claim a credit under subsections (9) to (16) and the amount of a credit under subsections (9) to (16) on the basis of the annualized final monthly rental payment at his or her previous homestead, if this annualized rental is less than the senior citizen's actual annual rental payments.

(14) For a return of less than 12 months, the claim for a credit under subsections (9) to (16) shall be reduced proportionately.

(15) The Michigan state housing development authority shall report on the effect of the credit provided by subsections (9) to (16) on the price of rented and leased homesteads. If the authority determines that the price of rented and leased homesteads has increased as a result of the credit provided by subsections (9) to (16), the authority shall make recommendations to the legislature to remedy this situation. The report shall be made to the chairpersons of the house and senate committees that have primary responsibility for taxation legislation 2 years after the credit provided by subsections (9) to (16) is in effect.

(16) The total credit allowed by this section and section 522 shall not exceed \$1,200.00 per year.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1979, Act 132, Eff. Mar. 27, 1980;—Am. 1980, Act 352, Imd. Eff. Dec. 29, 1980;—Am. 1982, Act 269, Imd. Eff. Oct. 5, 1982;—Am. 1982, Act 515, Imd. Eff. Dec. 31, 1982;—Am. 1984, Act 285, Imd. Eff. Dec. 20, 1984;—Am. 1985, Act 187, Imd. Eff. Dec. 20, 1985;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1990, Act 283, Imd. Eff. Dec. 14, 1990;—Am. 1992, Act 293, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995.

Constitutionality: The provision in the Income Tax Act for an income-graduated reduction of local property tax credits does not conflict with the constitutional prohibition against a graduated income tax because the property tax credit is payable to the property taxpayer irrespective of state income tax liability. *Butcher v. Department of Treasury*, 425 Mich. 262, 389 N.W.2d 412 (1986).

Compiler's note: Act 253 of 1980, purporting to amend §§ 206.30, 206.512, 206.520, and 206.522 and to add a § 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to, and disapproved by, the people at the general election held on November 4, 1980.

Section 2 of Act 515 of 1982 provides: "(1) Section 255 of this amendatory act shall be effective for the 1979 tax year and each tax year thereafter.

(2) Section 301 of this amendatory act shall take effect for tax years beginning on or after January 1, 1983.

(3) Section 520 of this amendatory act shall take effect for tax years beginning on or after January 1, 1981."

Section 2 of Act 187 of 1985 provides: "It is the intent of the legislature that this amendatory act shall not serve to affect a credit claimed under section 520 before the effective date of this amendatory act."

Act 486 of 1988, purporting to amend §§ 206.520 and 206.522, could not take effect "unless Senate Joint Resolution K of the 84th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." Senate Joint Resolution K was submitted to, and disapproved by, the people at the general election held on November 8, 1988.

Act 166 of 1989, purporting to amend §§ 206.520 and 206.522 and to add a § 206.252, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

206.522 Determination of amount of claim; election of classification in which to make claims; single claimant per household entitled to credit; "totally and permanently disabled" defined; computation of credit by senior citizen; reduction of claim; tables; maximum credit; total credit allowable.

Sec. 522. (1) The amount of a claim made pursuant to this chapter shall be determined as follows:

(a) A claimant is entitled to a credit against the state income tax liability equal to 60% of the amount by which the property taxes on the homestead, or the credit for rental of the homestead for the tax year, exceeds 3.5% of the claimant's household income for that tax year.

(b) A claimant who is a senior citizen or a paraplegic, hemiplegic, or quadriplegic and for tax years that begin after December 31, 1999, a claimant who is totally and permanently disabled or deaf is entitled to a credit against the state income tax liability for the amount by which the property taxes on the homestead, the credit for rental of the homestead, or a service charge in lieu of ad valorem taxes as provided by section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, for the tax year exceeds the percentage of the claimant's household income for that tax year computed as follows:

Household income Percentage

Not over \$3,000.00 .0%

Over \$3,000.00 but not over \$4,000.00 1.0%

Over \$4,000.00 but not over \$5,000.00 2.0%
Over \$5,000.00 but not over \$6,000.00 3.0%
Over \$6,000.00 3.5%

(c) For a tax year that begins before January 1, 2000, a claimant who is totally and permanently disabled is entitled to a credit against the state income tax liability equal to 60% of the amount by which the property taxes on the homestead, or the credit for rental of the homestead or for a service charge in lieu of ad valorem taxes as provided in section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, for the tax year, exceeds the percentage of the claimant's household income for that tax year based on the schedule in subdivision (b).

(d) A claimant who is an eligible serviceperson, eligible veteran, or eligible widow or widower is entitled to a credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year not in excess of 100% determined as follows:

(i) Divide the taxable value allowance specified in section 506 by the taxable value of the homestead or, if the eligible serviceperson, eligible veteran, or eligible widow or widower leases or rents a homestead, divide 17% of the total annual rent paid for tax years before the 1994 tax year, or 20% of the total annual rent paid for tax years after the 1993 tax year on the property by the property tax rate on the property.

(ii) Multiply the property taxes on the homestead by the percentage computed in subparagraph (i).

(e) A claimant who is blind is entitled to a credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year determined as follows:

(i) If the taxable value of the homestead is \$3,500.00 or less, 100% of the property taxes.

(ii) If the taxable value of the homestead is more than \$3,500.00, the percentage that \$3,500.00 bears to the taxable value of the homestead.

(2) A person who is qualified to make a claim under more than 1 classification shall elect the classification under which the claim is made.

(3) Only 1 claimant per household for a tax year is entitled to the credit, unless both the husband and wife filing a joint return are blind, then each shall be considered a claimant.

(4) As used in this section, "totally and permanently disabled" means disability as defined in section 216 of title II of the social security act, 42 U.S.C. 416.

(5) A senior citizen who has a total household income for the tax year of \$6,000.00 or less and who for 1973 received a senior citizen homestead exemption under former section 7c of the general property tax act, Act No. 206 of the Public Acts of 1893, may compute the credit against the state income tax liability for a percentage of the property taxes on the homestead for the tax year determined as follows:

(a) If the taxable value of the homestead is \$2,500.00 or less, 100% of the property taxes.

(b) If the taxable value of the homestead is more than \$2,500.00, the percentage that \$2,500.00 bears to the taxable value of the homestead.

(6) For a return of less than 12 months, the claim shall be reduced proportionately.

(7) The commissioner may prescribe tables that may be used to determine the amount of the claim.

(8) The total credit allowed in this section for each year after December 31, 1975 shall not exceed \$1,200.00 per year.

(9) The total credit allowable under this act and part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117, shall not exceed the total property tax due and payable by the claimant in that year. The amount by which the credit exceeds the property tax due and payable shall be deducted from the credit claimed under part 361 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101 to 324.36117.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1974, Act 12, Imd. Eff. Feb. 15, 1974;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975;—Am. 1975, Act 320, Imd. Eff. Jan. 2, 1976;—Am. 1978, Act 321, Imd. Eff. July 10, 1978;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1993, Act 328, Eff. Apr. 1, 1994;—Am. 1996, Act 55, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2000, Act 41, Imd. Eff. Mar. 27, 2000.

Compiler's note: Act 253 of 1980, purporting to amend §§ 206.30, 206.512, 206.520, and 206.522 and to add a § 206.261 could not take effect until Senate Joint Resolution X became effective as part of the constitution. Senate Joint Resolution X was submitted to, and disapproved by, the people at the general election held on November 4, 1980.

Act 486 of 1988, purporting to amend §§ 206.520 and 206.522, could not take effect "unless Senate Joint Resolution K of the 84th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." Senate Joint Resolution K was submitted to, and disapproved by, the people at the general election held on November 8, 1988.

Act 166 of 1989, purporting to amend §§ 206.520 and 206.522 and to add a § 206.252, could not take effect "unless amendment 2 of House Joint Resolution I of the 85th Legislature becomes a part of the constitution as provided in section 1 of article XII of the state constitution of 1963." House Joint Resolution I was submitted to, and disapproved by, the people at the special election held on November 7, 1989.

Subsection (1) of Section 3 of Act 484 provides:

“Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996.”

206.523 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to credit for sales tax paid on food and prescription drugs.

206.524 Credit adjustment; sale or transfer of homestead.

Sec. 524. (1) If the amount of the property taxes used as a basis for the credit computation differs from the property tax liability incurred and paid by the taxpayer for the tax year, the credit for the ensuing year shall be adjusted by the amount of the difference.

(2) If homestead property subject to ad valorem taxes is sold or transferred during the tax year, the respective amounts of credit shall be based on the ratio of days that the property was the claimant's homestead to the total number of days in the tax year.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

206.525 Repealed. 1980, Act 169, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to advance payment of expected property tax credit.

206.526 Right to file claim; payment of claim upon death of claimant; escheat.

Sec. 526. The right to file a claim is personal to the claimant. The right may be exercised on behalf of a claimant by an agent, guardian, attorney-in-fact, executor or administrator, or other persons charged with the care of the person or property of a claimant. When a claimant dies before he could have filed or after having filed a timely claim, the amount thereof may be paid to another member of the household or to the mortgagor of the state or federally aided housing, which is a multipurpose of multidwelling building, who has reduced the rent on the claimant's homestead because of the tax credit and payment provided in this chapter as determined by the commissioner. If the claimant was the only member of his household and was not renting his homestead in a multipurpose or multidwelling building that is state or federally aided housing, the claim shall be paid to his executor or administrator, but if neither is appointed within 2 years after the filing of the claim, the amount thereof shall escheat to the state.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 233, Imd. Eff. Aug. 27, 1975.

206.527 Repealed. 1990, Act 283, Imd. Eff. Dec. 14, 1990.

Compiler's note: The repealed section pertained to credit for heating fuel costs for homestead.

206.527a Credit for heating fuel costs for homestead; home weatherization assistance; study; rules; federal appropriation; methods of improving processing of claims; definitions.

Sec. 527a. (1) For tax years 1985 through 1994, a claimant may claim a credit against the state income tax for heating fuel costs for the claimant's homestead in this state. For the 1996 tax year and each tax year after the 1996 tax year and subject to subsections (18) and (19), a claimant may claim a credit for heating fuel costs for the claimant's homestead in this state. An adult foster care home, nursing home, home for the aged, or substance abuse center is not a homestead for purposes of this section. The credit shall be determined in the following manner:

(a) For the 1988 tax year through the 1994 tax year and, subject to subsections (18) and (19), for the 1996 tax year and each tax year after the 1996 tax year, the following table shall be used for the computation of a credit as computed under subdivision (c):

| | | | | | | |
|------------|--------|-------|-------|-------|-------|--|
| Exemptions | 0 or 1 | 2 | 3 | 4 | 5 | 6 or more |
| Credit | \$272 | \$326 | \$379 | \$450 | \$525 | \$601 + \$76 for each exemption over 6 |

(b) For tax years after the 1988 tax year, the amounts in the table in subdivision (a) shall be adjusted each year as necessary by the department so that a claimant with a household income less than 110% of the federal poverty income standards as defined and determined annually by the United States office of management and budget is not denied a credit.

(c) A claimant shall receive the greater of the credit amount as determined in subparagraph (i) or (ii):

(i) Subtract 3.5% of the claimant's household income from the amount specified in subdivision (a) that corresponds with the number of exemptions claimed in the return filed under this act, except that the number of exemptions for purposes of this subdivision shall not exceed the actual number of persons living in the

household plus the additional personal exemptions allowed under section 30, and any dependency exemptions for a person or persons living in the household under a custodial arrangement, even if the exemptions may not be claimed for other income tax purposes. For a claimant whose heating costs are included in his or her rent, multiply the result of the preceding calculation by 50%.

(ii) Subject to subsection (2), for a claimant whose household income does not exceed the maximum specified in the following table, as adjusted, that corresponds with the number of exemptions claimed in the return filed under this act, subtract 11% of claimant's household income from the total cost incurred by a claimant for heating fuel from a heating fuel provider during the 12 consecutive monthly billing periods ending in October of the tax year, and multiply the resulting amount by 70%:

| Exemptions | 0 or 1 | 2 | 3 | 4 | 5 | For each exemption over 5, add \$2,441.00 to the maximum income |
|----------------|---------|---------|----------|----------|----------|---|
| Maximum Income | \$7,060 | \$9,501 | \$11,943 | \$14,382 | \$16,824 | |

(d) For the 1988 tax year for the purposes of subdivision (c), the total cost incurred by a claimant for heating fuel from a heating fuel provider shall not exceed \$1,190.00. For tax years after the 1988 tax year, the maximum cost incurred by a claimant for heating fuel during a tax year shall be adjusted by multiplying the maximum cost for the immediately preceding tax year by the percentage by which the average all urban Detroit consumer price index for fuels and other utilities for the 12 months ending August 31 of the tax year for which the credit is claimed exceeds that index's average for the 12 months ending on August 31 of the previous tax year, but not more than 10%. That product shall be added to the maximum cost of the immediately preceding tax year and then rounded to the nearest whole dollar. That dollar amount is the new maximum cost for the current tax year. If the claimant received any credits to his or her heating bill during the tax year, as provided for in subsection (6), the credits shall be treated as costs incurred by the claimant.

(e) For tax years after the 1988 tax year, the maximum income amounts specified in subdivision (c)(ii) shall be adjusted by multiplying the respective maximum income amounts for the immediately preceding tax year by the percentage by which the average all urban Detroit consumer price index for all items for the 12 months ending August 31 of the tax year for which the credit is claimed exceeds that index's average for the 12 months ending on August 31 of the immediately preceding tax year, but not more than 10%. That product shall be added to the immediately preceding tax year's respective maximum income level and then rounded to the nearest whole dollar. That dollar amount is the new maximum income level for the then current tax year.

(2) An enrolled heating fuel provider shall notify each of its customers, not later than December 15 of each year or, for 1995 only, not later than January 10, 1996 or for 1996 only, not later than January 15, 1996, of the availability, upon request, of the information necessary for determining the credit under this section. For a claimant for whom, at the time of filing, the family independence agency is making direct vendor payments to an enrolled heating fuel provider, the enrolled heating fuel provider that accepts the direct payments shall provide the information necessary to determine the credit before February 1 of each year. If an enrolled heating fuel provider refuses or fails to provide to a customer the information required to determine the credit, or if the claimant is not a customer of an enrolled heating fuel provider, a claimant may determine the credit provided in subsection (1)(c)(ii) based on his or her own records.

(3) A credit claimed on a return that covers a period of less than 12 months shall be calculated based on subsection (1)(c)(i) and shall be reduced proportionately.

(4) The allowable amount of the credit under this section shall be remitted to the claimant, other than a claimant whose heating costs are included in his or her rent, in the form of an energy draft that states the name of the claimant and is issued by the department. For a claimant for whom, at the time of filing, the family independence agency has identified the enrolled heating fuel provider or is making direct vendor payments to an enrolled heating fuel provider, the department shall send the energy draft directly to the claimant's enrolled heating fuel provider, as identified by the claimant. If the department establishes a program or pilot program for the direct payment of energy drafts to enrolled heating fuel providers, enrolled heating fuel providers may submit to the department, in a manner prescribed by the department, the names of their customers who are claimants. If a claimant whose name has been submitted meets the standards established by the department, the department shall send that claimant's energy draft directly to the claimant's enrolled heating fuel provider. If the enrolled heating fuel provider submits names of claimants who are not its customers and the energy

drafts of any of those claimants are sent to the enrolled heating fuel provider, the enrolled heating fuel provider shall return the energy drafts or pay the value of the energy drafts to the department plus interest on the amount of the energy drafts at the rate calculated under section 23 for deficiencies in tax payments. Except as provided in subsection (5), after July 31, a refundable credit for a prior tax year may be paid in the form of a negotiable warrant. The energy draft shall be negotiable only through the claimant's enrolled heating fuel provider upon remittance by the claimant.

(5) If a claimant received home heating assistance from the family independence agency, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft to the claimant's enrolled heating fuel provider and the amount of the energy draft is greater than the total of outstanding bills incurred by the claimant with the enrolled heating fuel provider as of the date that the energy draft was remitted to the enrolled heating fuel provider, the enrolled heating fuel provider shall first apply the full amount of the energy draft to the claimant's outstanding bills and then apply any remaining amount to subsequent bills of the claimant until the full amount of the energy draft is used up or the expiration of 9 months after the date on which the energy draft was first applied to cover the claimant's outstanding bills. If there is any remaining energy draft amount at the end of the 9-month period, or if before the end of the 9-month period the claimant is no longer a customer of the enrolled heating fuel provider, the enrolled heating fuel provider shall remit the remaining amount to the claimant in the form of a fully negotiable check within 14 days after the end of the 9-month period or 14 days after the termination of services, whichever occurs sooner. If the claimant did not receive home heating assistance from the family independence agency, a governmental agency, or a nonprofit organization 12 months prior to remitting an energy draft, the claimant, by checking the appropriate box to be included on the energy draft or application for participation with an enrolled heating fuel provider, may request from the enrolled heating fuel provider a payment equal to the amount of the energy draft less the amount of the outstanding bills. The enrolled heating fuel provider shall issue the payment within 14 days after the claimant's request. For purposes of this subsection, home heating assistance does not include the credit allowed under this section.

(6) If a claimant whose energy draft exceeds his or her outstanding bills does not request a payment from an enrolled heating fuel provider under subsection (5), an energy draft remitted to an enrolled heating fuel provider shall be applied upon receipt to the claimant's designated account. The energy draft may be used to cover outstanding bills that the claimant has incurred with the enrolled heating fuel provider and to cover subsequent heating costs until the full amount of the energy draft is used or until 1 year after the date on which the energy draft is first applied to the claimant's designated account. If a credit amount remains from this energy draft after the 1-year period, or if prior to the end of the 1-year period a claimant is no longer a customer of the enrolled heating fuel provider, the heating fuel provider shall remit the remaining unused portion to the claimant in the form of a fully negotiable check within 14 days after the end of the 1-year period or within 14 days after termination of service, whichever is sooner.

(7) A claimant who is no longer a resident of this state, who is not a customer of an enrolled heating fuel provider, or whose heating fuel provider refuses to accept an energy draft shall return the energy draft to the department and request the issuance of a negotiable warrant. A claimant may return an energy draft to the department and request issuance of a negotiable warrant if the energy draft is impractical because the claimant has already purchased his or her energy supply for the year and does not have an outstanding obligation to an enrolled heating fuel provider. The department may honor that request if it agrees that the use of the energy draft is impractical. The department shall issue the warrant within 14 days after receiving the energy draft from the claimant.

(8) The enrolled heating fuel provider shall bill the department for credit amounts that have been applied to claimant accounts pursuant to subsection (6), and the department shall pay the bills within 14 days of receipt. The billing shall be accompanied by the energy drafts for which reimbursement is claimed.

(9) A claimant whose heating fuel is provided by a utility regulated by the Michigan public service commission is protected against the discontinuance of his or her heating fuel service from the date of filing a claim for the credit under this section through the date of issuance of an energy draft and during a period beginning December 1 of the tax year for which the credit is claimed and ending March 31 of the following year if the claimant participates in the winter protection program set forth in R 460.2174 of the Michigan administrative code or if the utility accepts the claimant's energy draft. The acceptance of an energy draft by a utility is considered a request by the claimant for the winter protection program. The energy draft shall be coded by the department to denote claimants who are 65 years of age or older. If the claimant is a claimant whose heating cost is included in his or her rent payments, the amount of the claim not used as an offset against the state income tax, after examination and review, shall be approved for payment, without interest, to the claimant.

(10) If an enrolled heating fuel provider does not issue a payment or a negotiable check within 14 days or

as otherwise provided in subsection (5) or (6), beginning on the fifteenth day or the fifteenth day after the expiration of the 9-month period under subsection (5), the amount due to the claimant is increased by adding interest computed on the basis of the rate of interest prescribed for delayed refunds of excess tax payments in section 30(3) of 1941 PA 122, MCL 205.30. The enrolled heating fuel provider shall pay the interest and shall not bill the interest to or be reimbursed for the interest by the department.

(11) Only the renter or lessee shall claim a credit on property that is rented or leased as a homestead. Only 1 credit may be claimed for a household. The credit under this section is in addition to other credits to which the claimant is entitled under this act. A person who is a full-time student at a school, community college, or college or university and who is claimed as a dependent by another person is not eligible for the credit provided by this section. A claimant who shares a homestead with other eligible claimants shall prorate the credit by the number of claimants sharing the homestead.

(12) A claimant who is eligible for the credit provided by this section shall be referred by the department to the appropriate state agency for determination of eligibility for home weatherization assistance and shall accept weatherization assistance if eligible and if assistance is available. A heating fuel provider that is required by the Michigan public service commission to participate in the residential conservation services home energy analysis program shall annually contact each claimant to whom it provides heating fuel, and whose usage exceeds 200,000 cubic feet of natural gas or 18,000 kilowatt hours of electricity annually, and shall offer to provide a home energy analysis at no cost to the claimant. A heating fuel provider that is not required to participate in the residential conservation services program shall not be required to conduct a home energy analysis for its customers.

(13) If an enrolled heating fuel provider is regulated by the Michigan public service commission, the Michigan public service commission may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider. If an enrolled heating fuel provider is not regulated by the Michigan public service commission, the family independence agency may use an enforcement method authorized by law or rule to enforce the requirements prescribed by this section on the enrolled heating fuel provider.

(14) The department shall mail a home heating credit return to every person who received assistance through family independence programs pursuant to the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, during the tax year.

(15) The department shall complete a study by August 1 of 1985, and of each subsequent year, of the actual heating costs of each claimant who received a credit from the department under this section for the immediately preceding tax year.

(16) The department may promulgate rules necessary to administer this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(17) The department shall provide a simplified procedure for claiming the credit under this section for claimants for whom, at the time of filing, the family independence agency is making direct vendor payments to an enrolled heating fuel provider.

(18) For the 2001 tax year and each tax year after the 2001 tax year, the credit under this section is allowed only if there has been a federal appropriation for the federal fiscal year beginning in the tax year of federal low income home energy assistance program block grant funds of any amount. If the amount of federal low income home energy assistance program block grant funds available for the home heating credit is less than the full home heating credit amount, each individual credit claimed under this section shall be reduced by multiplying the credit amount by a fraction, the numerator of which is the amount available for the home heating credit and the denominator of which is the full home heating credit amount. As used in this subsection, "amount available for the home heating credit" means the sum of the federal low income home energy assistance program block grant allotment for this state for the federal fiscal year beginning in the tax year and the amount as certified by the director of the family independence agency carried forward from the immediately preceding fiscal year for the low income home energy assistance program block grant minus the sum of the amount certified by the director of the family independence agency for administration of the low income home energy assistance program block grant, the amount certified by the director of the family independence agency for crisis assistance programs, and the amount certified by the director of the family independence agency for weatherization. Except as otherwise provided in this subsection, the amount used for weatherization each fiscal year shall not exceed \$9,000,000.00 less the amount used for weatherization from the emergency contingency funds received in the immediately preceding year. For the 2004-2005 state fiscal year only, the amount used for weatherization shall not exceed \$9,000,000.00 and shall not be reduced by the amount used for weatherization from the emergency contingency funds received in the immediately preceding year. The amounts under this subsection that require certification by the director of the family independence agency or by the state treasurer and the director of the department of management and budget shall be

certified on or before December 30 of the tax year for the 1996 tax year, and on or before November 1 of the tax year for the 1997 tax year and each tax year after the 1997 tax year. As used in this subsection, "full home heating credit amount" means the amount certified by the state treasurer and the director of the department of management and budget to be the estimated amount of the credits that would have been provided under this section for the tax year if no reduction as provided in this subsection were made for that tax year.

(19) For tax years after the 1994 tax year, a claimant who claims a credit under this section shall not report the credit amount on the claimant's income tax return filed under this act as an offset against the tax imposed by this act, but shall claim the credit on a separate form prescribed by the department. For tax years after the 1995 tax year, a credit claimed under this section shall not be allowed unless the claim for the credit is filed with the department on or before the September 30 immediately following the tax year for which the credit is claimed.

(20) The state treasurer shall notify all of the following each state fiscal year that the federal low income home energy assistance program block grant allotment for this state for that fiscal year is less than the full home heating credit amount:

(a) The chairpersons and vice-chairpersons of the senate and house of representatives appropriations committees.

(b) The senate and house of representatives committees on taxation and finance related issues.

(c) The senate and house of representatives committees on energy and technology related issues.

(21) Notwithstanding section 30a of 1941 PA 122, MCL 205.30a, the credit allowed under this section is exempt from interception, execution, levy, attachment, garnishment, or other legal process to collect a debt. No portion of the credit allowed or any rights existing under this section shall be applied as an offset to any liability of the claimant under section 30a of 1941 PA 122, MCL 205.30a, or any arrearage or other debt of the claimant.

(22) The department shall meet with interested parties including enrolled heating fuel providers and advocacy groups to identify and implement methods of improving the processing of claims for the credit allowed under this section and payments attributable to those credits.

(23) As used in this section:

(a) "Claimant whose heating costs are included in his or her rent" means a claimant whose rent includes the cost of heat at the time the claim for the credit under this section is filed.

(b) "Enrolled heating fuel provider" means a heating fuel provider that is enrolled with the family independence agency as a heating fuel provider.

(c) "Heating fuel provider" means an individual or entity that provides a claimant with heating fuel or electricity for heating purposes.

History: Add. 1979, Act 126, Imd. Eff. Oct. 23, 1979;—Am. 1981, Act 152, Imd. Eff. Nov. 19, 1981;—Am. 1984, Act 36, Eff. Apr. 12, 1984;—Am. 1985, Act 158, Imd. Eff. Nov. 15, 1985;—Am. 1987, Act 254, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 516, Imd. Eff. Dec. 30, 1988;—Am. 1989, Act 75, Imd. Eff. June 20, 1989;—Am. 1991, Act 181, Imd. Eff. Dec. 26, 1991;—Am. 1995, Act 245, Imd. Eff. Dec. 27, 1995;—Am. 1996, Act 484, Eff. Jan. 1, 1996;—Am. 2001, Act 169, Imd. Eff. Nov. 27, 2001;—Am. 2004, Act 335, Imd. Eff. Sept. 23, 2004.

Compiler's note: Section 2 of Act 181 of 1991 provides: "This amendatory act shall be effective for the 1991 tax year and each tax year after 1991."

Subsection (1) of Section 3 of Act 484 provides:

"Section 3. (1) Sections 264, 274, 439, 440, 471, 475, 506, 512, 522, and 527a of Act No. 281 of the Public Acts of 1967, as amended by this amendatory act, are retroactive and effective January 1, 1996."

Enacting section 1 of Act 335 of 2004 provides:

"Enacting section 1. This amendatory act is effective for tax years that begin after December 31, 2003."

206.528 Repealed. 1987, Act 254, Imd. Eff. Dec. 28, 1987.

Compiler's note: The repealed section pertained to penalty for excessive or fraudulent claim.

206.530 Proof required; credit computation for homestead; unoccupied land used for agricultural or horticultural purposes; disallowance of claim; applying amount of claim against liability.

Sec. 530. (1) The department may require reasonable proof from the claimant in support of rent paid, property taxes paid, household income, size and nature of the property claimed as a homestead, or any other information required for the administration of this chapter.

(2) If a homestead is occupied for less than a 12-month period, the credit computation shall be proportional to the period of occupancy. A claimant shall not occupy more than 1 homestead at 1 time. If more than 1 homestead is occupied during the tax year, the credit computation shall be proportional to the period of occupancy of each homestead, but not for a total period of more than 1 year.

(3) If unoccupied land is used for agricultural or horticultural purposes by the claimant, the credit shall be allowed only if the gross receipts of the agricultural or horticultural operations exceed the household income as defined in this act.

(4) A claim shall not be allowed if the department finds that the claimant received title to the homestead primarily for the purpose of receiving benefits under this chapter.

(5) The amount of a claim otherwise payable may be applied by the department against a liability outstanding on the books of the state against the claimant.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 168, Imd. Eff. July 17, 1975;—Am. 1976, Act 379, Imd. Eff. Dec. 28, 1976;—Am. 1977, Act 1, Imd. Eff. Feb. 23, 1977;—Am. 1980, Act 517, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 480, Eff. Mar. 30, 1983.

206.531 Repealed. 1976, Act 379, Imd. Eff. Dec. 28, 1976.

Compiler's note: The repealed section pertained to deferment of summer taxes by certain persons.

206.532 Forms for claiming credit; provisions of act applicable to chapter.

Sec. 532. The department shall prescribe forms for claiming the credit, which forms shall be a component part of the state income tax return, except as provided in section 531. All provisions of this act including but not limited to audit, review, determinations, appeals, hearings, notices, assessments, and administration shall apply to this chapter.

History: Add. 1973, Act 20, Imd. Eff. May 16, 1973;—Am. 1975, Act 168, Imd. Eff. July 17, 1975.